

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| No. | Author |
|-----|--|
| 1 | Los Angeles Irrigated Lands Group (LAILG) |
| 2 | Ventura County Irrigated Lands Group (VCAILG) |
| 2.a | VCAILG – Comment Letter |
| 2.b | VCAILG – Exhibit 1 – Technical Comments |
| 2.c | VCAILG – Exhibit 2 – Redline Recommendations |
| 2.d | VCAILG – Exhibit 3 – Legal, Policy, and Staff Report Comments |
| 3 | Ventura County Coalition of Labor Agriculture and Business (VC CoLAB) |
| 4 | Robert P. Roy, Ventura County Agricultural Association |
| 5 | California Avocado Commission |
| 6 | California Strawberry Commission |
| 7 | Numeric Solutions, LLC |
| 8 | Western Growers |
| 9 | Surfrider Foundation- Ventura County Chapter, Santa Barbara Channel Keeper, Heal the Bay, Los Angeles Waterkeeper, Wishtoyo Foundation & Ventura Coastkeeper |
| 10 | City of Oxnard |
| 11 | Bert E. Perello, Oxnard City Council Member |
| 12. | Chuck Carter – Email 1 (submitted August 15, 2023), Mandalay Bay/Oxnard resident |
| 13 | Chuck Carter- Exhibit 1 |
| 14 | Chuck Carter – Email 2 (submitted August 18, 2023) |
| 15 | Harbor & Beach Community Alliance (HBCA) |
| 16 | Patricia Younis CPM/Oxnard resident |
| 17 | Ann & Charles Jourdan, Mandalay Bay/Oxnard residents |
| 18 | Jon Schwallbach, Ph.D., Oxnard resident |
| 19 | Gary Ross, Highwave Inc |
| 20 | Robert Lurie, Oxnard resident |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | |
|----|--|
| 21 | Arthur Bierman, Oxnard resident |
| 22 | Bruno Tonin, Mandalay Bay resident |
| 23 | Janine Nesbit |
| 24 | Angie Wiggins |
| 25 | Robert Chatenever, Seabridge/Oxnard resident |
| 26 | Debbie Mitchell |
| 27 | Judy Havas, Oxnard resident |
| 28 | Phyllis Schirmer, Seabridge/Oxnard resident |
| 29 | Laurine Effress, Oxnard resident |
| 30 | Colleen McNally, Mandalay Bay/Oxnard resident |
| 31 | CJ Polacek, Seabridge/Oxnard resident |
| 32 | Harold Schneider, Seabridge/Oxnard resident |
| 33 | Steven Levine, Oxnard resident |
| 34 | Eric & Angela Dubber, Oxnard residents |
| 35 | Joyce Wallach, Oxnard resident |
| 36 | Gary Gallinot, Danny Gallinot, Brooke Roper, Oxnard residents |
| 37 | Cathy Trevino, Oxnard resident |
| 38 | Dennis Fitzgerald, Mandalay Bay/Oxnard resident |
| 39 | Josie and Jack Eivins, Harbour Island Condo/Oxnard resident |
| 40 | Ronald & LaVella Consiglio, Harbour Island Condominium Owners Association/Oxnard residents |
| 41 | Ellen Kampel and Howard Goodman, Oxnard residents |
| 43 | Lisa Minea, Oxnard resident |
| 43 | Melinda L. Irvin, Oxnard resident |
| 44 | Teri Sojka, Oxnard resident |
| 45 | Shari Asplund, Harbour Island/Oxnard resident |
| 46 | James and Ann Gibson, Mandalay Bay/Oxnard resident |
| 47 | Mr. & Mrs. Jeffrey Wiese, Oxnard residents |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | |
|----|--|
| 48 | Ronald Bolsky, Mandalay Bay resident |
| 49 | William Clark, Mandalay Bay/Oxnard resident |
| 50 | Michael & Lucia Miller, Oxnard resident |
| 51 | Horst E Hagner / Shunruo Xuan, Oxnard resident |
| 52 | Jennifer Ferro, Oxnard resident |
| 53 | John O'Brien, Oxnard resident |
| 54 | Audrey Keller, Channel Islands Harbor visitor |
| 55 | Gregory Shank, Mandalay Bay/Oxnard resident |
| 56 | Carol Taylor, Oxnard resident |
| 57 | David Kalian, Oxnard resident |
| 58 | Linda Gibson, Port Hueneme resident |
| 59 | Tom McNally, Seabridge resident |
| 60 | Jack Scapa, Oxnard resident |
| 61 | Larry & Charleen Schuss, Channel Islands Harbor/Oxnard residents |
| 62 | Michael Havas, Seabridge resident |
| 63 | Kim & Ron Chapman, Oxnard residents |
| 64 | Joe Telles, Seabridge/Oxnard resident |
| 65 | Richard & Wendy Romano, Seabridge/Oxnard residents |
| 66 | Christine George, Mandalay Bay resident |
| 67 | Thomas Cook, Oxnard resident |
| 68 | Patrick and Vicki Kersey, Seabridge/Oxnard residents |
| 69 | Norman & Robin Katz, Seabridge/Oxnard residents |
| 70 | Scott Von Lanken, Mandalay Bay/Oxnard resident |
| 71 | Gladys Degner, Seabridge resident |
| 72 | Keith Laufer, Mandalay Bay/Oxnard resident |
| 73 | Ileen & Derek Gribble, Seabridge/Oxnard residents |
| 74 | Richard & Kristie Elzinga, Harbour Island HOA/Oxnard residents |
| 75 | David O Barrette, Mandalay Bay/Oxnard resident |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | |
|----|---|
| 76 | Bonnie Carter, Mandalay Bay/Oxnard resident |
| 77 | Dave Copper, Oxnard resident |
| 78 | Randy & Aileen Cabral, Oxnard resident |
| 79 | Mike Haase, Oxnard resident |
| 80 | Barry Judis, Oxnard resident |
| 81 | Chris Gray, Mandalay Bay/Oxnard resident |
| 82 | Chris Bryson, Mandalay Bay/Oxnard resident |
| 83 | Maree Penhart, Mandalay Bay/Oxnard resident |
| 84 | Tina Verder, Mandalay Bay/Oxnard resident |
| 85 | Jane Wanda, Oxnard resident |
| 86 | Dave Colker, Seabridge Marina, Oxnard |
| 87 | George J Bregante, Seabridge/Oxnard resident |
| 88 | Joel & Frances Berman, Seabridge/Oxnard resident |
| 89 | Dan McInnes, Oxnard resident |
| 90 | Mark & Shirley Wolfe, Mandalay Bay/Oxnard residents |
| 91 | Kenneth E. Hayden (QSP), Seabridge/Oxnard resident |

| No. | Author | Comment | Response |
|-----|--------|--|----------------|
| 1.1 | LAILG | With the adoption of a WDR that is not guaranteed to be reviewed on a five-year timetable, it is incredibly important for the stability of the group that the new requirements are clear, reasonable, achievable, cost effective, sensible, and of vital importance, be actively enforced by the Los Angeles Region Water Quality Control Board (LARWQCB). | Comment noted. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------|--|---|
| 1.2 | LAILG | <p>How is it reasonable to expect enrolled growers to comply with increasingly complex rules when there have been no concrete regulatory repercussions for outright ignoring previous waivers in the past?</p> <p>LAILG recognizes that current staff has committed to increasing enforcement throughout the region, but historically speaking there has been very little actionable enforcement conducted by the LARWQCB. General enforcement during previous waiver periods has been severely lacking in the Los Angeles Region, and has driven growers to ignore both previous waiver enrollments and LAILG requests for enrolled members to supply LAILG with the required information to make the program work. Irrigated acreage enrolled in the LAILG has been on a continual decline, and all applicable growers in the region are going to be required to enroll for the health of the group.</p> <p>For example, LAILG provided LARWQCB staff with a list of delinquent accounts on October 25, 2019. LAILG recognizes that the COVID-19 outbreak delayed the issuing of any violations, but it has taken almost four years for notices to enroll to be issued. Although previous notices to enroll and Notices of Violations were sent by the LARWQCB under the previous Waiver, there has been no concrete enforcement or substantial follow up to these letters. There are enrolled growers in the region that have been actively paying dues and providing LAILG with all requested information for almost 20 years while watching</p> | <p>The Los Angeles Water Board understands the history of the Irrigated Land Regulatory Program and LAILG's difficulties in retaining membership. The Los Angeles Board has issued notices to re-enroll and Notices of Violation for over 10 years to assist LAILG in maintaining a successful Discharger Group.</p> <p>Since the adoption of the 2016/2021 Conditional Waiver, the Los Angeles Water Board has (1) in March 2017 sent out notices to complete the farm questionnaire to LAILG members who did not comply with the requirement, (2) in February 2018 sent notices to re-enroll to members who dropped out of LAILG, (3) in May 2018 sent notices to enroll to all known unenrolled growers, and (4) in May and August 2019 sent Notices of Violation to growers that did not respond to notices to enroll.</p> <p>While, the Los Angeles Water Board has been focused for the last three years on updating the program to</p> |
|-----|-------|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | <p>neighbors ignore the entire process for decades. This path is not sustainable, especially considering the increasing regulatory and financial burden on all those enrolled. We need to make growers who comply have less of a burden, not more of a burden, than those who chose not to enroll or be non-compliant.</p> | <p>align it with the State Water Board's precedential direction, strengthen permitting requirements, and incorporate requests from Discharger Groups that will improve program efficacy and administration, the Los Angeles Water Board sent out notices to enroll to the properties provided by LAILG on August 2, 2023.</p> <p>The Los Angeles Water Board anticipates continuing to use the notice to enroll and periodic Notices of Violation to unenrolled dischargers to assist LAILG with enrollment and appreciate the list of delinquent accounts.</p> <p>In addition, because the Los Angeles Water Board's Irrigated Lands Program is transitioning from a Conditional Waiver to Waste Discharge Requirements (WDRs), staff resources previously needed to address the administrative burden of the regular Conditional Waiver renewal can be shifted to program implementation and enforcement.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------|---|---|
| | | | This will provide greater ability to pursue nonparticipating growers and increase enrollment and compliance. |
| 1.3 | LAILG | <p>How are nurseries expected to interpret some of the more detailed aspects of precedential nitrogen reporting requirement of the ESJ when there is a lack of clarity on both who is required to report and how the reporting will be accomplished, both locally and statewide?</p> <p>The way the current Tentative Order is written, it appears that many members of LAILG will be exempted from professionally certifying the Irrigation and Nutrient Management Plans (INMP) and from reporting the total nitrogen removed aspect of Irrigation and Nutrient Management Reporting (INMR). However, there is too much ambiguity for LAILG to understand or even calculate how many members will be exempted from some of the various components.</p> <p>As an example, LAILG is comprised of mostly nurseries, and the ESJ precedential requirements are very difficult to interpret for nursery growers. We are unclear as to whether these requirements can be more clearly defined in the WDR or if the onus will fall upon the discharger group to justify our positions and apply for exemptions for growers. Nurseries contain a constantly rotating crop of many different plant varieties in self-contained pots, all of which are in different stages of growth and have different nutrient requirements. To compound this, crops in stock are subject</p> | <p>The Los Angeles Water Board acknowledges that Los Angeles County irrigated agriculture is vastly different than the area the Eastern San Joaquin (ESJ) Order regulates. However, the ESJ Order made certain requirements of the ESJ Order required for all irrigated lands programs statewide. The Los Angeles Water Board exercised discretion where the ESJ Order allowed, to provide a more region-tailored application of the ESJ Order to Los Angeles County.</p> <p>The Los Angeles Water Board has added additional language to help clarify the reporting requirements through addressing the comments received in this letter. The Los Angeles Water Board has made appropriate changes to the Tentative Order and Appendices where necessary (such as removing legacy language on TIE and decreasing</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------|---|---|
| | | to the whims of the market. Trying to plan for future nitrogen applications and determining a way to measure nitrogen removed for a rotating stock of sometimes up to a hundred varieties seems like an impossible task. It cannot be compared to edible plants where you can weigh the amount you are selling, which is what the original ESJ requirements were based on. | trends, adding a definition of a field and others). |
| 1.4 | LAILG | <p>How and why is it equitable to apply Groundwater Monitoring and Reporting Requirements to Irrigated Lands in the Los Angeles Region when LAILG membership makes up an estimated 0.036% of the land area of the entire region?</p> <p>The Los Angeles Region is nothing like the ESJ, where a main goal of the precedential requirements was to protect groundwater resources. Even in areas of LA where growers are concentrated, the land use is a fraction of surrounding land use. This begs the question, why are inner city nursery growers being forced to prepare documents on groundwater quality when they have no control over the vast majority of land area? The crops they stock are in containers and not planted in the ground, which means the majority of nitrogen is shipped off in the container when the plant is sold. They use very limited water due to the cost of the municipal water supply and constantly changing restrictions on water use. The vast majority of growers do not utilize groundwater for irrigation or have any sort of groundwater well installed on-site. The groundwater data is all publicly available, and it seems like an inequitable</p> | <p>See comment response 1.3.</p> <p>The Groundwater Monitoring and Reporting requirements apply to all irrigated lands in the State regardless of the size of the operation or how much of the land area the irrigated lands take up in a specific region. The general size of discharge in a particular region does not dictate the regulation of the resource. Additionally, the General WDRs are not the only permit to require the monitoring of groundwater. Other permits in the Los Angeles Region require the monitoring of groundwater when the discharge has the potential to impact groundwater quality.</p> <p>The ESJ Order states “<i>The requirement for groundwater quality</i></p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|---|
| | | <p>solution to force groundwater trend analysis and groundwater protection targets on nursery growers operating on small islands of land surrounded by homeowners, industrial complexes, and commercial facilities.</p> | <p><i>trend monitoring shall be precedential for irrigated lands regulatory programs statewide; however, the specific requirements and the monitored constituents specified in the General WDRs shall not be precedential.”</i></p> <p>Thus, the requirement to include groundwater quality trend monitoring is a precedential requirement, whereas the Los Angeles Water Board had discretion in the specific requirements and monitored constituents.</p> <p>The ESJ Order requires the monitoring of various constituents such as nitrate+nitrite-N, general minerals, and pesticides. The Los Angeles Water Board agrees that a more limited groundwater quality trend monitoring program in Los Angeles County given the scale and distribution of agricultural production in this county. The Los Angeles Regional Board has clarified the Groundwater Quality Trend Plan and Report requirement in Appendix 2 to</p> |
|--|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------|--|--|
| | | | <p>state that the only required monitored constituent is nitrate+nitrite-N.</p> <p>Appendix 2 Section 1.2.2 now states “In order to assess trends in groundwater quality, Discharger Group shall analyze existing monitoring data for nitrate+nitrite-N from groundwater basins below irrigated agricultural lands and propose wells that will be used to compare historical and future data to evaluate long-term groundwater trends in a Groundwater Quality Trend Plan, due December 15, 2024.”</p> <p>In addition, for the Groundwater Quality Trend Plan and Report, the Discharger Group can rely on publicly available data and this can be overlaid with current member locations to help fulfil this requirement.</p> |
| 1.5 | LAILG | LAILG understands the importance of protecting water quality and the difficulty that LARWQCB has in incorporating the statewide precedential requirements into the current regulatory program. Our primary concern is that | See comment response 1.3. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------|--|--|
| | | <p>the precedential requirements established by the ESJ were created for a vastly different agricultural industry that is substantially different than the LA region. In the ESJ, total farmland and individual farm sizes are larger, the area is almost exclusively agriculture, homogenous crops are grown over large areas in the ground, groundwater impacts from nitrogen are widespread and historical, groundwater is extensively used for irrigation and potable supply, etc. LAILG is concerned that if the Tentative Order does not take into account the vast differences between the two areas that the burden on local growers will ultimately be much larger than any actual impact to surface and groundwater quality could ever be.</p> | |
| 1.6 | LAILG | <p>LAILG is generally supportive of the contents and structure of the Tentative Order as currently written.</p> | <p>Comment noted.</p> |
| 1.7 | LAILG | <p>1) General Order, II.15, page 4</p> <p>Some property owners/operators may hire outside personnel that have a current Operator Identification Number/Permit for pesticide applications. It is unclear why this is different from the owner/operator holding one themselves, and appears to be a loophole.</p> | <p>The General Order and Appendices regulate commercial irrigated agriculture. It is not the intent of the Los Angeles Water Board to regulate a private homeowner that hires outside personnel that have a current Operator Identification Number/Permit for pesticide applications to help maintain their hobby/garden space.</p> <p>If the crop is being sold, regardless of whether or not the owner/operator holds an Operator Identification</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------|--|---|
| | | | Number, the discharger must enroll in the Waiver. Thus, it is the commercial nature of the activity on the land that determines the need for a discharger to enroll. |
| 1.8 | LAILG | <p>2) Appendix 2, Section 1.1.3, Table 2, page 7</p> <p>LAILG would like to note that as of the date of this letter, the LARWQCB has not supplied a map delineating areas subject to these TDML requirements</p> | <p>All TMDLs are available online, on the Los Angeles Regional Water Quality Control Board website: https://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/.</p> |
| 1.9 | LAILG | <p>3) Appendix 2, Section 1.1.3, page 7</p> <p><i>“If other Los Angeles Water Board programs (e.g. TMDLs) are used to monitor the constituents in Table 2 (at a monitoring location currently sampled by the Discharger Group) the results of that monitoring must be reported in the Annual Monitoring Report required in Section 3.2 of this document”</i></p> <p>LAILG suggests adding verbiage similar to the red passage above for clarity. The current passage reads as if all monitoring conducted throughout each subwatershed for every LARWQCB program must be included in the Annual Monitoring Report.</p> | <p>Coordination (and subsequent resource sharing) between programs is encouraged. The intent of this language is to make sure if coordinated monitoring is utilized to address TMDL constituents, the results of that monitoring are included in the AMR.</p> <p>Some TMDLs specifically require agricultural dischargers to conduct watershed-wide monitoring. This is the sampling that shall be reported in the Annual Monitoring Report.</p> <p>The Los Angeles Water Board added the following language to</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|---|---|
| | | | <p>Appendix 2, Section 1.1.3 to clarify this:</p> <p><i>“If other Los Angeles Water Board programs (e.g. TMDLs) are used to monitor agricultural discharge of the constituents in Table 2, the results of that monitoring must be reported in the Annual Monitoring Report required in Section 3.2 of this document”</i></p> |
| 1.10 | LAILG | <p>4) Appendix 2, Section 1.2.2, page 7</p> <p>As discussed earlier in the letter, LAILG land area only makes up a miniscule amount of land above the various groundwater basins in the Los Angeles Area. LAILG represents an estimated 1,122 acres of land, and the staff report estimates that a total of 2,500 acres of irrigated land exist in Los Angeles County, in areas that are “dispersed, non-contiguous, and interspersed with other land uses, such as urban and industrial land uses” (pg 130). Los Angeles County is reported to be 3,040,603 acres in size, so by even by LARWQCB estimations irrigated land accounts for a maximum of 0.082% of the land area. It is hard to fathom that the original intent of the precedential groundwater quality trend monitoring requirements in the ESJ order can be reasonably applied to Los Angeles County.</p> | <p>See comment response 1.3 and 1.4.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|---|
| | | <p>LAILG does not agree that the burden of compiling and analyzing publicly available data to establish nutrient trends in groundwater should be placed upon such a small portion of the population. Irrigated lands in the LA area are primarily nurseries growing plants in containers, not in the ground, and are not the only source of potential nutrient pollution.</p> <p>The State Water Resources Control Board currently reports an Aquifer Risk Map, updated annually, as required by SB-200 passed by the California Legislature. This map looks at depth-filtered, declustered water quality results from public and domestic supply wells, and includes Nitrates as one of the individually mapped contaminants. LAILG proposes that this publicly available map for potential nitrate risks in groundwater, reported on an annual basis, is sufficient to reference for groundwater quality trends in the region. LAILG can overlay current member locations onto the available GIS data for clarity.</p> | |
| 1.11 | LAILG | <p>5) Appendix 2, Section 1.2.3, page 8</p> <p>In following up with the previous comment, developing an agriculturally based Groundwater Protection Formula for an area that is not primarily influenced by agriculture does not seem in line with the intention of the precedential order. In reference to the precedential Groundwater Protection Formula, Values, and Target requirements, the exact wording states that <i>“all of the regional water boards shall</i></p> | <p>The development of a Groundwater Protection Formula, Values, and Targets are a precedential ESJ Order requirement. See comment 1.3.</p> <p>Appendix 2 section 1.2.3 states <i>“A high priority area is an area where the Executive Officer has</i></p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p><i>apply this methodology or a similar methodology, designed to determine targets for nitrogen loading within high priority townships or other geographic areas, for the remaining irrigated lands regulatory programs in the state.”</i> The staff report further states in Section 13.4.6.3, “<i>A high priority area is an area where the Executive Officer determines irrigated agriculture may be causing or contributing to exceedances of water quality objectives or a trend of degradation of groundwater that may threaten applicable basin plan beneficial uses.</i>”</p> <p>Based on the above wording, it is unclear to LAILG how the small sized, dispersed, and container-based agriculture in Los Angeles County can lead to high priority areas requiring groundwater protection formulas. LAILG does not have growers that utilize private supply wells and all of the data to complete this analysis already exists publicly. The onus should not be placed on LAILG to determine how much agriculture could be potentially impacting groundwater under a primarily urban landscape. If the LARWQCB believes these high priority areas exist, LAILG requests specific guidance on where and how these requirements can be implemented.</p> | <p><i>determined that irrigated agriculture may be causing or contributing to exceedances of water quality objectives or a trend of degradation of groundwater that may threaten applicable basin plan beneficial uses. More specifically, this includes those basins monitored as part of Section 1.2.2 [Groundwater Quality Trend Report], that had one or more wells with a documented mean Nitrate-N concentration of greater than 10 mg/L or 5-10 mg/L and increasing concentration trend. High priority areas will be evaluated and determined every 3 years based on the results of the Groundwater Quality Monitoring Trend Report.”</i></p> <p>Thus, everyone has to do formulas and values. However only targets when high priority. Currently, there are no high priority areas identified by the Executive Officer in Los Angeles County.</p> <p>The Los Angeles Water Board added language to Appendix 2 clarifying this.</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|---|--|
| | | | <p>Appendix 2 Section 1.2.3 now states <i>“The Discharger Group shall propose Groundwater Protection Values to the Executive Officer for approval after opportunity for public review and comment within six months of Executive Officer approval of the Groundwater Protection Formula or within six months of Executive Officer identification of a high priority area, whichever comes later.”</i></p> |
| 1.12 | LAILG | <p>6) Appendix 2, Section 1.3, page 10 (TIE procedures)</p> <p>LAILG would like to note that we are conducting edge of field sampling, not in-stream sampling like other programs or areas across the state. The samples are collected from low volume discharges, often sheet flow, that are only generated from storm flow during active rain. The TIE testing is an expensive procedure that has not generated any significant findings over the life of the program. To save excessive costs, LAILG requests to exclude the TIE testing procedures going forward.</p> | <p>The 2016/2021 Conditional Waiver removed the requirement for Toxicity Identification Evaluation (TIE) investigations for Los Angeles County. The basis of the removal was LAILG’s annual monitoring reports which concluded (based on the TIEs conducted under the previous waivers) that where toxicity has been observed, the cause of the toxicity was related to non-polar organic compounds, most likely pyrethroids.</p> <p>The Los Angeles Water Board understands that LAILG is already</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>focusing its management practice implementation on addressing pyrethroids when there is a toxicity exceedance. The types of management practices that address pyrethroids and other non-polar organic compounds will be effective at addressing toxicity exceedances.</p> <p>Thus, continuing with the conclusion made in the 2016/2021 Waiver, the requirement for TIEs to determine the exact cause of the toxicity exceedances in Los Angeles County is unnecessary at this time.</p> <p>Under the proposed General Order and Appendices, a toxicity exceedance automatically triggers the WQMP process for all sites represented by the site with the toxicity exceedance. At these sites, dischargers will be required to implement management practices, as they have been, to address the toxicity exceedance. Additionally, dischargers will ultimately be subject to discharge limitations if toxicity</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>Water Quality Benchmarks are not attained.</p> <p>For the same reasons that were applicable for the 2016/2021 Conditional Waiver, TIE investigations have been removed from the General WDRs requirements.</p> <p>To ensure that growers are in fact implementing management practices that address toxicity as well as pyrethroids, the monitoring and reporting requirements are revised to specify MP categories to be included in the WQMP for toxicity water quality benchmark exceedances and additionally in response to VCAILG comment, as follows:</p> <ul style="list-style-type: none">○ For exceedances of Water Quality Benchmarks for copper and current use pesticides, such as chlorpyrifos, diazinon, and pyrethroids, <u>and toxicity</u>, the WQMP must specify the |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|---|
| | | | <p>following types of management practices:</p> <ul style="list-style-type: none">• Pesticide management plans• Improved irrigation efficiency to reduce runoff• Practices to reduce erosion and sediment in runoff• Stormwater runoff filtration and/or infiltration <p>Vegetated practices, such as Riparian buffers</p> |
| 1.13 | LAILG | <p>7) Appendix 2, Section 1.4</p> <p>The numbering in this Section is not sequential. All references to Sections below refer to the section numbering as is listed in the Tentative Order.</p> | <p>The Los Angeles Water Board changed Appendix 2 so that the numbering is sequential. For the purposes of this Response to Comment document, all references to Sections refer to the section numbering as listed in the Tentative Order and Appendices.</p> |
| 1.14 | LAILG | <p>8) Appendix 2, Section 1.4.1, page 10-11</p> <p>Page 126 of the staff report states: <i>“Using the flexibility given by the ESJ Order, for Ventura County, staff recommends requiring that all INMP plans must be certified unless farms are smaller than 10 acres. Using that same</i></p> | <p>The Los Angeles Water Board updated the Staff Report to match the language that is listed in Appendix 2 and 3 of the Tentative Order and Appendices.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p><i>flexibility, for Los Angeles County, staff also recommends certification be required for all growers that are determined to be outliers irrespective of farm size. An outlier is a grower that applies excess nitrogen. Outlier will be identified by the Discharger Group...”</i></p> <p>This statement leads LAILG to believe that the requirements for certification in Ventura County is 10 acres, while the requirements for certification in Los Angeles County is any growers determined to be outliers by LAILG. Please clarify in the Tentative Order if these are separate or joint requirements for each area.</p> <p>If the requirements are meant to apply to both regions, then the term “total farming” must be defined. Due to the dispersed nature of irrigated agriculture throughout much of Los Angeles, many growers have smaller parcels that are separated geographically from each other throughout the region. In order to determine which growers would fall into the 10-acre threshold, total farming would need to be clarified if the intended definition is contiguous acres or is total acres operated by the grower regardless of geographic location. Many nursery growers also operate on land both inside and outside of the LARWQCB district boundaries. If it is defined as total acres regardless of geographic location, the total farming definition should specify if it includes all land the grower operates on throughout the state, regardless of Water Board boundaries.</p> | <p>The Order requires that all Discharger Group Member INMPs be certified unless the Discharger Group member’s total farming is less than 10 acres, and the Discharger Group member has not been designated as an outlier by the Discharger Group.</p> <p>For the purposes of this requirement, total farming is calculated by county. If the Discharger Group member has property in Los Angeles County, then it is the sum of all acreage in Los Angeles County, contiguous or not.</p> <p>The INMP prepared by a Discharger Group member can contain multiple fields, as defined in Appendix 2 Section 1.4.3.2. The intent of the certification requirement is to ensure that growers can make informed decisions when deciding how much nutrients to apply. The goal is to reduce the amount of nutrients that end up in the surface and groundwater. It is likely that a grower</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|--|
| | | LAILG suggests that contiguous land area be used, which is in line with the definition of field in Section 1.4.3.2. | who overapplies nutrients will overapply on small dispersed parcels as well as on one contiguous large parcel. Therefore, it is the sum of all irrigated acreage, not the contiguous land area, in the county the grower farms that is the certification threshold. |
| 1.15 | LAILG | <p>9) Appendix 2, Section 1.4.2, page 11</p> <p><i>“The INMRs submitted by Members shall be reported by field¹⁰ and include nitrogen applied values¹¹ and crop yield.¹⁰ A field is a contiguous piece of land that has the same crop planted on it. There can be multiple fields on a single parcel and a field can span across multiple parcels.”</i></p> <p>For the vast majority of nursery operations, there is no field since there are multiple plant types, species, and varieties planted across numerous small areas, all of which have various nitrogen requirements. These plants are also inside of containers and may be moved throughout the growing process. This makes reporting by field, according to the definition in the Tentative Order, an impossible task, as any one grower could have hundreds of “fields” even in a smaller nursery setting.</p> <p>Furthermore, the term “crop” is not defined in a way that can be meaningfully applied to a nursery situation, as any one nursery can typically be growing hundred of different</p> | <p>Reporting of the INMRs by field is a precedential requirement. See comment 1.3.</p> <p>Footnote 88 of the ESJ Order defines “field”: <i>“We have clarified in the Modified Eastern San Joaquin Agricultural General WDRs that, where the WDRs require reporting by field, Members may report data for a portion of a field or for multiple fields provided that the reported area has (1) the same crop type, (2) the same fertilizer inputs, (3) the same irrigation management, and (4) the same management practices. We are using the term “field” throughout this order to remain consistent with the terms used within the Eastern San Joaquin Agricultural General WDRs, but</i></p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>plant species. Measuring “crop yield” is also an impossible task, as there is no easily measured yield for plants that are grown and shipped in containers, especially considering they are sold according to whims of the market and are not grown for uniform time periods. Individually weighing and tracking each plant at a nursery facility during the growth cycle up until the sale date is not a practical request.</p> <p>LAILG requests that the INMR for nurseries be submitted by location, not by field. LAILG also requests that the definition of crop follow the USDA definition of “specialty crops,” which is very broad and specifically lists plants on its website (African Violet, for example) down to the subgenus taxonomical level.</p> | <p><i>other regions may use different terms to refer to the same concept. For reporting purposes in the Central Valley, the term “field” represents a convenient and appropriate reporting area such that the data reported is meaningful and the scale of reporting balances the level of detail with the reporting burden. Some growers in other regions engage in highly intensive cropping practices, including multiple rotations of different crops in the same location within a single year, unpredictable crop types and harvesting based on rapidly-shifting market demand, and variable management practices adjusting to weather and field conditions. The regional water boards have the flexibility to develop alternative reporting areas for these types of growers, as long as the regional water board determines that the alternative reporting area provides meaningful data and balances the level of detail with the reporting burden similar to the field approach. In no case should a reported area exceed a total size of</i></p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p><i>640 acres, and different crop types must always be reported separately even if they are within the same reporting area, to allow for evaluation of the effectiveness of management practices with regard to each individual crop type grown.”</i></p> <p>Given the ESJ Order language and the comment submitted by LAILG, the Los Angeles Water Board added an additional field definition that applies only to Los Angeles County Nurseries. The additional definition for field has been added to Appendix 2, footnote 10: <u>For Los Angeles County nurseries only, a field can be a single location; however, each crop in the location must be reported separately.</u></p> <p>Los Angeles County nurseries can report by location rather than field. For each location, the Discharger Group member must report a nitrogen applied value and crop yield for each different crop type at that location so that an annual and multi-</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>year A/R value and an annual and multi-year A-R value can be calculated for each different crop type at each location the Discharger Group member has.</p> <p>It appears that the USDA definition of specialty crop referenced in this comment is from the Farm Bill (section 10010 of the Agricultural Act of 2014, Public Law 113-79) definition of specialty crop. The Farm Bill defines specialty crop to be fruits and vegetables, tree nuts, dried fruits, and horticulture and nursery crops (including floriculture). Therefore, nursery crops are considered specialty crops using this definition.</p> <p>The Los Angeles Water Board does not agree that this level of specificity provides clarity or aids implementation of the Tentative Order. For the purposes of the INMP requirement for Los Angeles County container nurseries, a crop is considered all the plants of the same varietal and in the same size</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|--|
| | | | container since they, for the most part, have the same nitrogen and water inputs. |
| 1.16 | LAILG | <p>10) Appendix 2, Section 1.4.3.2, page 11-12</p> <p>For initially reporting the Total Nitrogen Applied value only, the Tentative Order states the following: <i>“Growers that (1) operate in areas with evidence of no or very limited nitrogen impacts to surface water or groundwater, (2) have minimal nitrogen inputs, and (3) have difficulty measuring yield”</i></p> <p>LAILG requests that the word and be replaced with or. The conditions for (1) appear to be impossible to apply to any grower, as some historical samples collected by the group have reported nitrogen in runoff. There is no clear way to show evidence that there is no impact to groundwater. The word and makes this alternative reporting pathway impossible to meet.</p> | <p>The Total Nitrogen Applied value reporting requirement category is precedential. See comment 1.3.</p> <p>However, in recognition of the fact that there are some circumstances in which the burden of reporting R may not be justified or may pose unique challenges because of difficulties in measuring yield, the ESJ Order allows, at regional board discretion, specific alternative requirements.</p> <p>The specific alternative reporting allowed language on page 40 of the ESJ Order includes “and” but not “or”. Therefore, no change has been made.</p> |
| 1.17 | LAILG | <p><i>“Diversified socially disadvantaged growers, as defined by the Farmer Equity Act of 2017, 117 with (1) a maximum total acreage of 45 acres, (2) gross annual sales of less than \$350,000, and (3) a crop diversity greater than 0.5 crops per acre (one crop for every two acres)”</i></p> | See response to comments 1.14 and 1.15. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|---|
| | | As mentioned in comment 7 regarding “total farming”, a calculation for “maximum total acreage” needs to be defined as total contiguous acres, total acres in LARWQCB jurisdiction, or total acres across all operations, regardless of location. As stated in comment 8, a definition of “crop” must also be determined. Both of these are necessary in order for LAILG to determine which members fall under this alternative reporting pathway. | |
| 1.18 | LAILG | <p><i>“Growers with (1) a maximum total acreage of 20 acres, and (2) a crop diversity greater than 0.5 crops per acre (one crop for every two acres)”</i></p> <p>See comment above.</p> <p>LAILG suggests that contiguous land area be used, which is in line with the definition of field in Section 1.4.3.2. LAILG also requests that the definition of crop follow the USDA definition of “specialty crops,” which is very broad and specifically lists plants on its website (African Violet, for example) down to the subgenus taxonomical level.</p> | See response to comment 1.14 and 1.15. |
| 1.19 | LAILG | <p><i>“The Discharger Group shall prepare an assessment report as part of its WQMP for Executive Officer approval that demonstrates that any Member seeks submit the A value only meets these criteria”</i></p> <p>This seems like an unnecessary step in the process, as the data to determine who meets the A value only reporting will be supplied by the growers themselves. LAILG suggests that the group assist members with understanding the</p> | The Los Angeles Water Board agrees that the data to determine who meets the A value-only reporting will be supplied by the growers themselves and recommends that LAILG assist members with understanding the requirements; however, INMRs are submitted to the Los Angeles Water |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|--|
| | | requirements, and members self-certify that they meet one of these criteria in their INMR. | Board by a field level anonymous member ID. So, in order to protect grower anonymity in the INMRs and to ensure quality reporting, the Discharger Group shall assess and demonstrate that the criteria are met. |
| 1.20 | LAILG | <p>11) Appendix 2, Section 1.4.4, page 12</p> <p><i>“The Discharger Group shall prepare an assessment report as part of its WQMP and submit it to the Executive Officer for approval, demonstrating Members meet the criteria for exemption from nitrogen management requirements”</i></p> <p>Meeting this exemption would require very site-specific circumstances at a grower’s location, and is not likely an obtainable exemption for the majority of members. LAILG suggests that “<i>Discharger Group</i>” be changed to “member or members requesting exemption” and strike out “<i>as part of its WQMP</i>” so that costs to prove an exemption fall onto the individual member or members and not the group as a whole.</p> | <p>The Los Angeles Water Board agrees that the cost to prove exemption should not fall to the group as a whole. The requested change has been made.</p> <p>The Los Angeles Water Board understands the assessment may be a burden on LAILG. LAILG is responsible to creating an Irrigation and Nutrient Management Report template that is approved by the Los Angeles Water Board. In that template they can include an area for the Member to provide a perjury statement specifying how they qualify for approval. LAILG can submit these statements in the WQMP.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|---|
| | | | <p>Section 3.4 now states: “For existing Discharger Groups, the first WQMP shall be based on water quality monitoring data from 2007-2023 and the results of surveys completed by its members per Order No. R4-2021-0045-A02. The Discharger Group shall begin surveying its members with the field-level reports within six months of the adoption of Order No. R4-2023-XXXX in order to submit the first WQMP. The WQMP shall include a list of any Members that meet the criteria for alternative nitrogen reporting-or that are exempt from nitrogen management requirements.”</p> |
| 1.21 | LAILG | <p>12) Appendix 2, Section 1.4.5.1, page 12</p> <p><i>“For crops without existing coefficients, the Discharger Group shall determine, through literature review, nitrogen removal testing and research, the most appropriate coefficients for converting crop yield to total nitrogen removed, five years after adoptions of Order R4-2023-XXX.”</i></p> <p>LAILG would like to point out that the development of nitrogen removed values for an untold number of different nursery crops is well outside the ability of the group or even</p> | <p>The Los Angeles Water Board acknowledges that crop coefficients for nursery crops are still early in development.</p> <p>Section 1.4.5.1 continues on page 13 and allows for only crop yield to be reported until crop-specific coefficients have been approved for a particular crop.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|--|
| | | <p>the scientific community at this time. The Tentative Order should specify that this requirement should not apply to nurseries until there is a general consensus across the state on how to appropriately apply any removal values or estimations to a nursery setting.</p> | <p>We also note that, per footnote 12 (page 13), that <i>Published values for many crop-specific coefficients are already available in scientific literature and others are expected to become available in the near future. The Los Angeles Water Board acknowledge that some of these crop-specific coefficients warrant further refinement, such as crop coefficients based on crop varieties or regional characteristics. Nevertheless, the Los Angeles Water Board encourages the Discharger Group to start using available crop-specific coefficients to calculate total nitrogen removed and to perform relevant analysis prior to the five year deadline, and refine the coefficients over time. That is, we may be able to come to a significantly better understanding of the impact of nitrogen via total nitrogen applied and removed prior to development of a 'general consensus.'</i></p> |
| 1.22 | LAILG | 13) Appendix 2, Section 2.2, page 17 | <p>Appendix 2, Section 2.2 lists types of management practices that must be specified in the WQMP. These types</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p><i>“If source reduction and non-structural management practices are fully implemented¹⁶ by all members represented by the monitoring site, then the WQMP must specify implementation of structural/treatment management practices”</i></p> <p>LAILG does not have the authority to demand or force members to install structural or treatment management practices, especially considering the financial burden of these types of management practices.</p> | <p>of practices are required to be specified when water quality benchmarks are exceeded. If a Discharger Group member has implemented all the non-structural, non-treatment methods and there still is a water quality benchmark exceedance then additional structural/treatment management practices are necessary. LAILG is responsible for including the structural/treatment management practices in the WQMP. The growers themselves are responsible for implementing those management practices. The Los Angeles Water Board also notes that structural/treatment management practices include a wide range of activities from mulching to bioreactors. Growers are encouraged to select the management practices that are appropriate for their scale and operation. Nevertheless, growers are required to be enrolled in the General WDRs and are required to implement such practices, including structural practices, to ensure</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|--|
| | | | discharges from their operations do not impact water quality. Therefore, when water quality exceedances occur, the WQMP must be updated accordingly. |
| 1.23 | LAILG | <p>14) Appendix 2, Section 2.4, Table 3</p> <p>As stated in comment 2, the LARWQCB has not supplied a map delineating areas subject to these TDML requirements. LAILG is unable to determine which growers will be subject to these requirements in order to assess any potential impacts.</p> | See comment 1.8. |
| 1.24 | LAILG | <p>15) Appendix 2, Section 2.4, page 19</p> <p><i>“For Discharger Group representative monitoring sites that do not show decreasing trends...have an additional year before they are subject to discharge limitations equal to water quality benchmarks at the point of discharge.”</i></p> <p>The current sampling protocol for the LAILG is based on representative monitoring sites taking into account member operational practices, not geographical locations. It is unclear from the passage if these discharge limitations would apply to all representative growers inside the areas subject to the TMDLs, or throughout the entire representative group. At this time, LAILG does not have representative monitoring sites that take into account the various geographical TMDLs, as no map outlining the responsibility areas for these requirements has been</p> | <p>This requirement states that the discharge limitations apply to all dischargers that are represented by the site that had the discharge limitation. This is the nature of representative sampling. Sites are grouped together based on similar characteristics. If the sampling site is exceeding the water quality benchmark it is assumed the sites being represented by the sampling site are also exceeding. Additional language was added to Appendix 2 Section 2.4 to clarify when discharge limitations apply. The TMDLs are available online, see comment response 1.8.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------|--|---|
| | | <p>supplied by the LARWQCB. This data is critical to determining how these requirements may affect members in the group.</p> <p>This passage needs to be discussed and clarified in detail to determine the ultimate intent of the LARWQCB. LAILG will adjust the current monitoring protocol if necessary to account for or separate members located in areas affected by TMDLs, however, it is not feasible to have any future individual monitoring fall directly under the oversight of LAILG. The LAILG does not have the financial resources to support any sort of individual monitoring at member locations. Should this occur, LAILG may assist growers with compliance outside of the group setting, but any oversight and enforcement will have to fall under the purview of the LARWQCB.</p> | <p>LAILG can re-categorize sampling groups in the Monitoring and Reporting Plan.</p> <p>The financial responsibility of the monitoring that occurs when a discharge limitation applies is between the Discharger Group and its members. The member sites that are subject to the discharge limitations must be sampled.</p> <p>The Discharger Group does not have any ability to enforce any of the requirements of the Tentative Order. The Los Angeles Water Board enforces the General WDRs. Additionally, the Los Angeles Water Board oversees the implementation of the Tentative Order.</p> |
| 1.25 | LAILG | <p>Once again, LAILG appreciates the chance to comment on the draft of the Tentative Order, and looks forward to continuing a positive relationship with the Los Angeles Regional Water Quality Control Board. As stated before, the lack of clarification has not allowed LAILG to even begin analyzing the effect on our growers. We hope some of these questions will be addressed prior to the final WDR, so we can begin to understand what appears to be a</p> | <p>The Los Angeles Water Board has clarified the questions LAILG have submitted in the comment letter and looks forward to continuing our relationship with LAILG and providing further support as we implement the Order together.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|---|--|
| | | significant financial and paperwork burden that our growers will need to adapt to. We really need to try and ensure that the new WDR does not overly impact the many small, minority owned nurseries that exist in the region. | |
| 2a.1 | VCAILG | <p>Critical Comment #1. The Tentative Order cannot retroactively apply individual discharge limitations for TMDLs that had later compliance dates under the Conditional Waiver.</p> <p>...we focus here on our primary concern, which is that the Tentative Order rescinds previously approved Water Quality Benchmark compliance deadline extensions. As result of this action, individual discharge limitations are being retroactively triggered several years earlier than they otherwise were under the 2016/2021 Waiver. (Staff Report, p. 113.) These specific revisions create considerable uncertainty and confusion with respect to grower compliance with the 2016/2021 Waiver. Arguably, by changing the water quality benchmark compliance dates in this Tentative Order to a date that is earlier than the one in the 2016/2021 Waiver, growers may now be in violation of the 2016/2021 Waiver. This is significant considering that the previous Waiver is terminated, "... except for the purposes of enforcement," (Tentative Order, p. 21.)</p> <p>To avoid putting growers in jeopardy by changing the dates in the Tentative Order, and having the new- past dates apply retroactively, all past due TMDL deadlines in the Tentative Order should be aligned with the effective date of</p> | <p>The inclusion of the TMDL compliance dates from the Basin Plan in the Tentative Order does not retroactively apply individual discharge limitations nor put growers in danger of retroactive enforcement under the 2016/2021 Waiver.</p> <p>The 2016/2021 Waiver is set to expire September 30, 2023 unless terminated earlier by the adoption of the Tentative Order. Even if the Tentative Order is adopted, the TMDL compliance dates included in the 2016/2021 Waiver are not and will not be retroactively changed. As stated on page 21 of the Tentative Order, the 2016/2021 Waiver "is terminated as of the effective date of this General Order <i>except for the purposes of enforcement.</i>" (emphasis added.) The Tentative Order does not revise or otherwise amend the 2016/2021 Waiver. This means, that any enforcement of the</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>the Tentative Order – once adopted. Revising the Tentative Order accordingly is in keeping with general rules that govern the retroactive effect of judicial decisions¹ and a recognized exception in circumstances where parties have relied on previous judicial decisions/determinations. Specifically, although the general rule is that judicial decisions are given retroactive effect, “... there is a recognized exception when a judicial decision changes a settled rule on which parties below have relied. [Citations.] ‘[C]onsiderations of fairness and public policy may require that a decision be given only prospective application. ... Particular considerations relevant to the retroactivity determination include the reasonableness of the parties reliance on the former rule, the nature of the change as substantive or procedural, retroactivity’s effect on the administration of justice, and the purposes served by the new rule.” (<i>Claxton v. Waters</i> (2004) 34 Cal. 4th 367, 378-379.)</p> <p>Here, growers have relied on the 2016/2021 Waiver, and its explicit compliance dates, to determine if they are subject to individual discharge limitations. In reliance on these dates, growers have appropriately determined if additional actions were necessary – or not – to comply with the 2016/2021 Waiver. Now, with the Tentative Order, Los Angeles Water Board staff seek to change these dates, which will result in growers being retroactively subject to individual discharge limitations. Such an action creates considerable unfairness and negates grower reasonable reliance on the 2016/2021</p> | <p>2016/2021 Waiver, including enforcement of individual discharge limitations, would be based on the terms, conditions, and deadlines in the 2016/2021 Waiver. The inclusion of the TMDL compliance dates as specified in the Basin Plan in the Tentative Order, would not subject growers to additional enforcement under the 2016/2021 Waiver.</p> <p>Furthermore, the language specifically stating that the previous order is “terminated as of the effective date of this General Order except for the purposes of enforcement...” is a standard clause in Water Boards orders. The Los Angeles Water Board is not aware of any instance in which a regional water board or the Office of Enforcement has relied on this language to apply a new permit’s conditions retroactively. The commenter’s reliance on <i>Claxton v. Waters</i> to suggest that this language could apply retroactively is misleading. <i>Claxton v. Waters</i></p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>Waiver. Because this action could result in grower violations for enforcement purposes with no remedy available to address the violations, the compliance date change in the Tentative Order must apply prospectively only. To best achieve prospective application, we recommend that all past due TMDL deadlines be revised to be the effective date of the Tentative Order.</p> <p><i>Requested Action:</i> <i>Revise all past due TMDL deadlines in the Tentative Order and Appendices to be "Effective Date of the Order" and modify other elements of the Tentative Order as requested in the technical comment attachment and the redline attachment to ensure TMDL benchmark exceedances are not retroactively applied to TMDLs that did not have an effective compliance deadline under the 2016/2021 Waiver.</i></p> <p>¹ The 2016/2021 Waiver and this Tentative Order are quasi-judicial orders. Thus, general rules applicable judicial decisions are also appropriately applied to quasi-judicial decisions.</p> | <p>involves the precedential effect of a court of appeal decision establishing a rule of law and not an evidentiary hearing conducted to adopt a permit. It is therefore wholly irrelevant.</p> <p>The Los Angeles Water Board also disagrees that including past due TMDL compliance dates in the Tentative Order retroactively triggers individual discharge limitations or somehow puts the growers in jeopardy of retroactive enforcement under the Tentative Order. Depending on the specific TMDL under discussion, and assuming an exceedance of water quality benchmarks at the corresponding monitoring station(s), the earliest a discharge limitation would be triggered under the Tentative Order is the effective date of the WDRs (i.e., the date the Tentative Order is adopted). While individual discharge limitations may be triggered sooner under the Tentative Order than they would have been under the 2016/2021 Waiver, triggering an individual discharge limitation in and</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>of itself is not a violation of the Tentative Order that makes a grower subject to potential enforcement. The discharge limitation merely puts the growers on a compliance track focused on individualized monitoring or management practice implementation. The Tentative Order, associated appendices and staff report provide a compliance framework for growers to implement these discharge limitations once triggered.</p> <p>The Tentative Order includes a management practice-based compliance option (Track 2) that allows dischargers to be deemed in compliance with applicable individual discharge limitations if they are they implementing an approved farm-level management practice plan (MPP). The Track 2 compliance option includes a phased-in schedule for growers to submit their MPPs. This provides additional time for growers to implement any necessary compliance actions even though some TMDL compliance</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--|---|---|
| | | | <p>dates will have already passed at the time the order is adopted.</p> <p>The following statement in section 13.1 of the staff report has been revised for clarification purposes... “In some cases this will result in individual discharge limitations under the 2023 WDRs being triggered several years earlier than they would have been under the Water Quality Benchmark Compliance Deadlines included in 2016/2021 Waiver.</p> |
| 2a.2 | | <p>Critical Comment #2. The Tentative Order cannot apply TMDL-related requirements to growers that are not subject to TMDL requirements.</p> <p>Growers that do not discharge to an impaired waterbody cannot be held responsible for complying with the TMDL-based water quality benchmarks.</p> <p>The Tentative Order implies TMDL-derived requirements will be applied to areas not subject to TMDLs by using responsibility areas defined per the requirements of the 2016/2021 Waiver to determine where individual discharge limitations will apply. The 2016/2021 Waiver established the concept of responsibility areas to define how monitoring results that are collected at representative locations throughout the County would be used to trigger other</p> | <p>The Los Angeles Water Board agrees that TMDLs, and by extension TMDL-related requirements, only apply to growers who have the potential to discharge (directly or indirectly) to a waterbody subject to a TMDL and that have been assigned a load allocation in that TMDL.</p> <p>Available monitoring data indicates that most of the TMDL water quality benchmarks in Appendix 5 are not being met at the representative monitoring sites selected by VCAILG</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>requirements, such as implementation of management practices in the Water Quality Management Plans (WQMPs). The 2016/2021 Waiver specified conditions for how the responsibility areas would be developed.² (² <i>The responsibility areas were to be defined in the Monitoring and Reporting Plan and include “the HUC-12 watershed in which the monitoring site is located, any adjacent HUC-12 watersheds that do not include a monitoring site.” HUC-12s do not align with TMDL watershed boundaries or defined waterbody reaches in many cases. As a result, responsibility areas are often not aligned with TMDL waterbodies because the responsibility areas were required to be developed utilizing HUC-12 boundaries.</i>)</p> <p>These conditions did not include consideration of TMDL boundaries or the waterbodies to which TMDL requirements apply, but as noted, relied on HUC-12 boundaries and adjacent areas. As a result, Tentative Order requirements resulting from TMDL benchmark exceedances that are generically applied to responsibility areas established under the 2016/2021 Waiver are effectively applying TMDL requirements to areas that are not subject to the TMDL.</p> <p>VCAILG proposes to resolve the concern by working with the Los Angeles Water Board staff to redefine the responsibility areas to reflect the TMDL boundaries more accurately and apply TMDL benchmarks only to growers subject to TMDL requirements. The redefined responsibility</p> | <p>to determine compliance with these benchmarks. A majority of the TMDL compliance deadlines have passed or will in the near future, therefore most of the growers in the Ventura County part of the region must comply with TMDL related requirements (discharge limitations) contained in the Tentative Order. However, there are some isolated subwatersheds that are not currently subject to any TMDLs.</p> <p>Under the 2016/2021 Waiver, growers were assigned to responsibility areas. As per VCAILG’s 2017 WQMP, <i>“Responsibility Areas consist (with minor variations) of one or more HUC12s, or partial HUC12s—and were designed to be consistent with drainage patterns, regulatory reaches and TMDL responsibilities”</i>. HUC-12 watersheds are delineated by the United States Geologic Survey according to a hierarchical system to identify any hydrologic area. HUC-12 watersheds are the smallest areas in that hierarchical</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>areas would be proposed for approval in the MRP that will be submitted as a requirement of the Tentative Order. While VCAILG is committed to working with the Los Angeles Water Board staff to resolve this issue as quickly as possible and avoid delays in implementation of Track 2 requirements, it is imperative that the Los Angeles Water Board staff make the determination of which members are subject to individual discharge limitations associated with a TMDL. It is the responsibility of the Los Angeles Water Board to determine if the TMDL benchmark exceedances submitted by VCAILG are in actuality exceedances, whether the exceedances trigger the application of discharge limitations, and what growers are subject to discharge limitations. VCAILG does not have the legal authority to make the determination as to the applicability of the Tentative Order requirements and, as a practical matter, it would impact the relationships and trust between VCAILG and our members.</p> <p>Revisions to the Tentative Order are needed throughout to clarify where and how TMDL-related requirements are applied to growers. Exhibit 1 provides more details on these requested changes and Exhibit 2 provides specific requested edits.</p> <p><i>Requested Action:</i></p> <p><i>Make the changes identified in Exhibits 1 and 2, including, but not limited to:</i></p> | <p>system and generally correspond to sub-watersheds that “fit in” to the larger watersheds upon which TMDL boundaries are based. Thus, HUC-12 watersheds naturally align with TMDL watershed boundaries.</p> <p>In response to this comment, a review of the spatial coverage of the responsibility areas, the geographical extent of the HUC-12s and TMDL boundaries was completed using TMDL shapefiles and Appendices B and C of VCAILGs 2020 WQMP (<i>Appendix B. Maps Showing Relationship Between Responsibility Areas and HUC-12 Watersheds 2020; Appendix C. Maps of Enrolled and Not Enrolled Agricultural Parcels by Responsibility Area October 2020</i>).</p> <p>This review confirmed that existing responsibility areas generally align with the TMDL boundaries and are an appropriate tool for implementing the discharge limitations in most cases. The review also confirmed that there are a small number of</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <ul style="list-style-type: none">• <i>Revise the definition of discharge limitations to only refer to Appendix 5. Clarify references to TMDL benchmarks and discharge limitations throughout the Tentative Order to refer only to Appendix 5.</i>• <i>Include the following language in the introductory paragraph to Section 3 of Appendix 3: “For responsibility areas within which the TMDL applies to only a portion of the area, only Members in the area in which the TMDL applies shall be subject to discharge limitations.”</i>• <i>Revise the required notices section of Appendix 3 to include a step for the Los Angeles Water Board to notify VCAILG of the members subject to discharge limitations.</i>• <i>Revise Table 4 in Appendix 3 per Exhibit 2 to include the TMDLs, TMDL monitoring location, and TMDL waterbodies and remove the references to 2016/2021 Waiver responsibility areas and number of parcels in those responsibility areas.</i> | <p>subwatersheds that do not drain to a waterbody subject to a TMDL that are nonetheless included in a responsibility area for that TMDL.</p> <p>The Los Angeles Water Board acknowledges that if these responsibility areas were carried over under the Tentative Order, then some growers that are not covered by a TMDL, or that are covered by a different TMDL, could become subject to TMDL-related requirements for a TMDL that would not otherwise cover their discharge.</p> <p>However, nothing in the Tentative Order or the associated Monitoring and Reporting Program in Appendix 3 requires VCAILG to maintain its existing responsibility areas. (Compare Section 1.1.1 in Appendix 3 requiring Discharger Groups to maintain existing monitoring sites approved under the 2016/2021 Waiver, with Section 2.1 of Appendix 3 requiring submission of a map showing a monitoring site and its responsibility area.) The references</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>to the HUC-12 subwatersheds in the 2016/2021 Waiver that are cited by the commenter were not carried over to the Tentative Order to clarify the applicability of TMDL-based requirements.</p> <p>Nevertheless, Dischargers, regulators and NGOs are familiar with the boundaries of the existing responsibility areas. The Los Angeles Water Board recommends moving forward with the existing responsibility areas to the greatest extent possible. The continued use of the existing responsibility areas would promote programmatic continuity and provide consistency and transparency that benefits both the regulated community and the public. As such, the Los Angeles Water Board has revised the schedule to phase in TMDL-associated individual discharge limitations. The new schedule includes time enough for any new responsibility areas to be developed, reviewed and approved before a MPP submission deadline is</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>reached for those not subject to the TMDL requirements.</p> <p>Notwithstanding the above, growers that are not currently subject to TMDLs should be aware that per VCAILGs 2019 WQMP almost half of the standard water quality objectives are exceeded in agriculture-dominated surface waters in Ventura County. (See response to comment 2d.9 for further details.) This has resulted in a high number of impaired regional waterbodies identified on the CWA 303(d) list, which may be subject to TMDL development in the future. While the Tentative Order is based on the current conditions and established TMDLs, growers should be implementing the necessary management practices to achieve water quality benchmarks even if there is not a TMDL compliance deadline yet. If new TMDLs are adopted in the future, the permit would be revised to incorporate them.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|---|---|
| | | | Clarifications to table 41 (now Table 42 due to a typographical change) in the staff report and table 4 in Appendix 3 have been made to address this comment. Additional text has been added to section 14.2. of the staff report to provide further guidance. |
| 2a.3 | | <p>Track 2 needs to be clear, implementable, achievable, and be clearly linked to compliance.</p> <p>VCAILG has put significant effort into developing and proposing an implementation focused pathway to compliance with TMDL benchmarks once the TMDL deadline has passed. As previously stated, we appreciate and support the inclusion of Track 2 in the Tentative Order. However, we have identified a number of revisions that are necessary to ensure that the pathway will be a viable implementation option for growers.</p> | <p>VCAILG is a valuable partner in the efforts to address regional waterbodies impaired by agricultural discharges and their continued efforts are appreciated.</p> <p>The August 18, 2023 comment letter from VCAILG contained a number of “Critical Comments” and general overarching recommended revisions. Those comments and recommendations were repeated in more specific detail in exhibits 1 and 3. Specific responses to the VCAILGs recommended revisions follow in the responses below.</p> |
| 2b.1 | VCAILG | Modify the Expression of TMDL Deadlines in the Tentative Order to Ensure Tentative Order Requirements are not Retroactively Applied | See response to comment 2a.1 for discussion of TMDL deadlines. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>As discussed in the comment letter in Critical Comment #1, VCAILG is concerned that the way the TMDL deadlines are incorporated into the Tentative Order results in retroactive application of TMDL requirements in the Tentative Order. Legal arguments from the comment letter are repeated here for clarity.</p> <p>As result of rescinding previously approved Water Quality Benchmark compliance deadline extensions, individual discharge limitations are being retroactively triggered several years earlier than they otherwise were under the 2016/2021 Waiver. (Staff Report, p. 113.) These specific revisions create considerable uncertainty and confusion with respect to grower compliance with the 2016/2021 Waiver. Arguably, by changing the water quality benchmark compliance dates in this Tentative Order to a date that is earlier than the one in the 2016/2021 Waiver, growers may now be in violation of the 2016/2021 Waiver. This is significant considering that the previous Waiver is terminated, "... except for the purposes of enforcement," (Tentative Order, p. 21.)</p> <p>To avoid putting growers in jeopardy by changing the dates in the Tentative Order, and having the new- past dates apply retroactively, all past due TMDL deadlines in the Tentative Order should be aligned with the effective date of the Tentative Order – once adopted. Revising the Tentative Order accordingly is in keeping with general rules that</p> | <p>Appendix 5 has been updated to remove the interim TMDL Benchmarks.</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>govern the retroactive effect of judicial decisions¹ and a recognized exception in circumstances where parties have relied on previous judicial decisions/determinations. Specifically, although the general rule is that judicial decisions are given retroactive effect, "... there is a recognized exception when a judicial decision changes a settled rule on which parties below have relied. [Citations.] '[C]onsiderations of fairness and public policy may require that a decision be given only prospective application. ... Particular considerations relevant to the retroactivity determination include the reasonableness of the parties reliance on the former rule, the nature of the change as substantive or procedural, retroactivity's effect on the administration of justice, and the purposes served by the new rule." (<i>Claxton v. Waters</i> (2004) 34 Cal. 4th 367, 378-379.)</p> <p>Here, growers have relied on the 2016/2021 Waiver, and its explicit compliance dates, to determine if they are subject to individual discharge limitations. In reliance on these dates, growers have appropriately determined if additional actions were necessary – or not – to comply with the 2016/2021 Waiver. Now, with the Tentative Order, Los Angeles Water Board staff seek to change these dates, which will result in growers being retroactively subject to individual discharge limitations. Such an action creates considerable unfairness and negates grower reasonable reliance on the 2016/2021 Waiver. Because this action could result in grower violations for enforcement purposes with no remedy</p> | |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|--|
| | | <p>available to address the violations, the compliance date change in the Tentative Order must apply prospectively only.</p> <p>To address these concerns, VCAILG requests that all TMDL deadlines in the Tentative Order that occur before the effective date of the Order be modified to “Effective date of the Order.” This is consistent with the approach taken in the Los Angeles Regional MS4 Permit and other WDRs to provide clarity on how to interpret the requirements in the Tentative Order.</p> <p>Additionally, in Appendix 5, interim TMDL benchmarks are no longer effective after the final TMDL benchmarks become effective. As a result, the tables of interim TMDL benchmarks are no longer needed for the Calleguas Creek Toxicity, Chlorpyrifos, and Diazinon TMDL, Calleguas Creek Watershed Metals and Selenium TMDL, and dry weather Santa Clara River Bacteria TMDL. Please delete these tables from Appendix 5.</p> <p><i>Requested Action:</i> <i>Make the requested changes shown in Exhibit 2 through the Tentative Order and Appendices to change all TMDL dates that occur prior to the adoption of the Tentative Order to “Effective date of the Order.”</i> <i>Remove Interim TMDL Benchmark Tables 4, 5, 10, 11, 12 and the dry weather row in Table 30 from Appendix 5.</i></p> | |
|--|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|---|--|
| | | ¹ The 2016/2021 Waiver and this Tentative Order are quasi-judicial orders. Thus, general rules applicable judicial decisions are also appropriately applied to quasi-judicial decisions. | |
| 2b.2 | VCAILG | <p>VCAILG does not support the inclusion of discharge limitations in the Tentative Order and views that the inclusion of discharge limitations creates unnecessary confusion regarding implementation of the requirements.</p> <p>Although VCAILG does not support the use of discharge limitations, to address these concerns, VCAILG requests that a section be added to Appendix 5 that clearly describes how TMDL benchmarks are to be applied as individual discharge limitations and how attainment of the discharge limitations can be demonstrated. Specifically, water quality objectives should be allowed to be used to demonstrate attainment with load based TMDL benchmarks and benchmarks in sediment and fish tissue.</p> <p>Additionally, if the receiving water is meeting the TMDL benchmarks, individual discharge limitations should be considered to be attained as the individual discharger is not causing or contributing to an exceedance in the receiving water.</p> <p><i>Requested Action:</i></p> <p><i>Add the following requested language to Appendix 3 and Appendix 5 of the Tentative Order (as shown in Exhibit 2) to</i></p> | <p>The Los Angeles Water Board disagrees that discharge limitations create unnecessary confusion or that the Board is legally or technically precluded from implementing TMDLs with the edge-of-field based requirements.</p> <p>While some TMDLs do include load allocations that are expressed in-stream, measured in sediment or fish tissue, or at the base of the subwatershed, edge-of-field monitoring for these type of load allocations would be achieved through the application of the numeric targets utilized in developing the TMDL. These are clearly defined in the Basin Plan amendments and are based on the either the Basin Plan or CTR.</p> <p>The comment statement:</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p><i>clarify the application of TMDL benchmarks as discharge limitations.</i></p> <p><i>Attainment of discharge limitations can be demonstrated through one of the following methods:</i></p> <ol style="list-style-type: none"><i>1. No exceedances of the TMDL water quality benchmark at the individual discharge monitoring point. If the TMDL water quality benchmark is to be measured in the receiving water or as a load, this demonstration may be met through no exceedances of the water quality objectives at the individual discharge monitoring point; or</i><i>2. No exceedances of the TMDL water quality benchmark at the Discharger Group TMDL monitoring location for Discharger Group members; or</i><i>3. No exceedances of the TMDL water quality benchmark or the corresponding water quality objective at TMDL receiving water monitoring locations designated in the MRP or in an approved TMDL monitoring plan for Discharger Group members; or</i><i>4. No direct or indirect discharge from the member site; or</i><i>5. There is substantial evidence that agriculture discharges did not cause or contribute to that exceedance (e.g., the exceedance was the result of the intentional act of a third party, lab error, or other non-controllable factor such as natural sources).</i> | <p><i>“if the receiving water is meeting the TMDL benchmarks, individual discharge limitations should be considered to be attained as the individual discharger is not causing or contributing to an exceedance in the receiving water” is true, but not fully contextualized in the comment.</i></p> <p>The Commentor appears to be misapplying the term “receiving water” to only the mainstem portions of the TMDL waterbodies. In addition to the mainstems the waterbodies of Ventura County, most of the discharger group monitoring sites also are receiving waters.</p> <p>For this reason, the TMDL load allocations are translated into water quality benchmarks that must be met at the discharger group monitoring sites for most of the TMDLs incorporated into the Tentative Order. The exception to this is the Calleguas Creek Watershed OC Pesticides and PCBs TMDL, the Calleguas Creek Watershed Boron, Chloride, Sulfate and TDS (Salts)</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|--|---|
| | | | <p>TMDL and the Calleguas Creek Watershed and Mugu Lagoon Metals TMDL. The Basin Plan amendments for these three TMDLs include language that specifies compliance with the load allocations is measured at the base of each subwatershed. This language is currently included in the Appendix 5 for Calleguas Creek OC Pesticides and PCBs and Calleguas Creek Salts and additional corresponding language will be added to the Calleguas Creek Metals section.</p> |
| 2b.3 | VCAILG | <p>Clarify the Definition of Discharge Limitations and Consistently Use the Terms Discharge Limitations and Water Quality Benchmarks Consistent with the Definitions Throughout the Order</p> <p>All requirements that are associated with discharge limitations in the Tentative Order are specific to exceedances of TMDL benchmarks, but the definition of discharge limitations references water quality benchmarks in Appendix 4 which are not related to TMDLs. The Tentative Order should be clarified throughout so that discharge limitations are clearly only applied when exceedances of TMDL benchmarks occur after TMDL</p> | <p>The references to discharge limitations and Water Quality Benchmarks in Appendix 4 (Standard Water Quality Benchmarks) were included because there were Discharge limitations applicable to growers in Los Angeles County that may have been triggered by exceedances of the Standard Water Quality Benchmarks in Appendix 4 under certain conditions. In response to comments from the Los Angeles</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>deadlines have passed and are not applicable to water quality benchmarks in Appendix 4.</p> <p>The terms “discharge limitations” and “water quality benchmarks” are not used consistent with their definitions throughout the Tentative Order, creating confusion in some cases as to what requirements apply. For example, reporting on discharge limitations is required for the Discharger Group annual monitoring report, but the Discharger Group monitoring locations are only subject to benchmarks, not discharge limitations. Conversely, the individual annual monitoring report should only require evaluating compliance with discharge limitations because benchmarks do not apply to individual monitoring.</p> <p>Finally, other terms, such as load allocations, are used in Appendices to the Tentative Order. These other terms are not clearly defined and their use could create confusion for interpreting the Tentative Order requirements. These other terms should be replaced by water quality benchmarks to provide clarity for application of Tentative Order requirements.</p> <p><i>Requested Action:</i> VCAILG Comment Letter 4 August 18, 2023 Exhibit 1 - Technical Comments</p> <p><i>Make the requested changes in Exhibit 2 throughout the Tentative Order and Appendices to clarify that discharge</i></p> | <p>County Discharger Group, this trigger has been removed in the revised Appendix 2. The references to Appendix 4 as a trigger for individual discharge limitations are thus also removed in the revised Tentative Order.</p> <p>For growers in Ventura County, Appendix 3, explicitly specifies that discharge limitations are only triggered for exceedances of TMDL-associated water quality benchmarks. However, for clarity the following changes are made:</p> <p>Appendix 3, Section 3:</p> <p>If a TMDL-associated water quality benchmark <u>in Appendix 5</u> is not met at a Discharger Group monitoring site by the deadline in Table 3, then all Members in the responsibility area for the group monitoring site shall be subject to <u>a</u> discharge limitations equal to the water quality benchmarks from the deadline forward. Members will be subject to the individual discharge limitations</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <p><i>limitations only apply to TMDL benchmarks in Appendix 5 once the TMDL deadlines have passed.</i></p> <p><i>Make the requested changes in Exhibit 2 to clarify when benchmarks apply and when discharge limitations apply.</i></p> <p><i>Change all references to load allocations in Appendix 5 to TMDL benchmarks for consistency with the Tentative Order.</i></p> | <p>until the group monitoring site is meeting the water quality benchmark. The Discharger Group shall continue to monitor, evaluate, and address water quality benchmark exceedances after Table 3 deadlines have passed as outlined in Section 2 of this Appendix.</p> <p>Appendix 3, Section 3.1.a: Members are immediately subject to discharge limitations for exceedance of a water quality benchmarks in Appendix 5 that occur after the deadlines in Table 3 unless there is substantial evidence that agriculture discharges did not cause or contribute to that exceedance (e.g., the exceedance was the result of the intentional act of a third party, lab error, or other non-controllable factor).</p> <p>Tentative Order Section XII.4:</p> <p>If a Discharger fails to implement any of the provisions in this General Order, including implementation of management practices and</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|--|---|
| | | | upgraded management practices as necessary to attain water quality benchmarks, then the Discharger may be subject to enforcement <u>or individual discharge limitations</u> . |
| 2b.4 | VCAILG | <p>Include clarifying language to support interpretation of the Calleguas Creek Watershed and Mugu Lagoon Siltation TMDL benchmarks</p> <p>The study found that Mugu Lagoon was no longer impaired due to sediment and siltation and no additional load reductions were necessary. According to the TMDL implementation plan:</p> <p>However, should the Regional Water Board strictly interpret the existing allocations or targets in the TMDL or modify the TMDL in a way that differs from the study recommendations, additional time would be needed to achieve the revised TMDL.</p> <p>Appendix 3 includes the footnote from the 2016/2021 Waiver in Table 3 that recognized this situation, but the footnote was not included in Table 2 of the Tentative Order or Table 1 of Appendix 5. VCAILG requests that the footnote be included in Table 2 of the Tentative Order and Table 1 of Appendix 5 for consistency.</p> | <p>Appendix 5 includes the Water Quality Benchmarks Based Upon TMDL load allocations. The study did not change the TMDL allocations so a footnote in Appendix 5 regarding the submittal of the study and the subsequent findings is not necessary or appropriate.</p> <p>Unless the TMDL, and any load allocations therein, are revised or revoked through a Basin Plan amendment, the TMDL remains in effect.</p> <p>No footnote will be added to Table 2 of the Tentative Order or Table 1 of Appendix 5. The footnote will be removed from Appendix 3 for consistency.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|--|--|
| | | <p>Additionally, VCAILG requests a footnote be included in the Tentative Order Appendix 5 to recognize the submittal of the study and its findings.</p> <p><i>Requested Action:</i> <i>Make the following changes to the Tentative Order and Appendices, as shown in Exhibit 2.</i></p> <p><i>In Table 2 of the Tentative Order and Table 1 of Appendix 5 add the footnote that is included in Table 3 of Appendix:</i></p> <p><i>“Additional time may be added to this TMDL deadline should a TMDL reconsideration revise the implementation schedule based on the results of special studies.</i> <i>In Appendix 5, add the following footnote to the Calleguas Creek Watershed and Mugu Lagoon Siltation TMDL Benchmark discussion:</i></p> <p><i>“The Calleguas Creek Stakeholders Implementing TMDLs, of which VCAILG is a member, submitted a report in March 2014 documenting that the Mugu Lagoon is no longer impaired due to sedimentation and no additional load reductions are necessary.”</i></p> | |
| 2b.5 | VCAILG | <p>Include clarifying language to support interpretation of compliance with the Trash TMDL Benchmarks</p> <p>The Ventura River Estuary and Revolon Slough and Beardsley Wash Trash TMDLs include load allocations that include a defined compliance pathway that should be clearly defined as compliance in the Tentative Order.</p> | Appendix 5 states “Dischargers may achieve compliance with the Load Allocations by implementing a minimum frequency of assessment and collection/best management practice (MFAC/BMP) program”. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>While Appendix 5 includes language reflecting this load allocation, it is not clear that implementing an approved MFAC program is compliance with the TMDL benchmark. The Tentative Order should clearly acknowledge that compliance with the Trash TMDL benchmarks is through implementation of a MFAC program and is not subject to the same trend analysis requirements as other constituents.</p> <p><i>Requested Action: Please include the following language as a footnote to the Ventura River Estuary Trash TMDL and Revolon Slough and Beardsley Wash Trash TMDL benchmarks in Appendix 5.</i></p> <p><i>“Compliance with the water quality benchmarks for trash is determined per the TMDL as: no trash immediately following each assessment and collection event consistent with an approved Minimum Frequency of Assessment and Collection Program (MFAC Program). Implementation of an approved MFAC Program, including any modifications deemed necessary by the Executive Officer to ensure trash is not accumulating in deleterious amounts that cause nuisance or adversely affect beneficial uses between collections, is deemed to be attaining the water quality benchmark for trash. Additionally, the trash benchmarks are not subject to the trend analysis requirements in Appendix 3.”</i></p> | <p>As VCAILG pointed out in their own comments (2d.2), the manner of compliance a discharger pursues cannot be dictated. The recommended language footnote addition, while only subtly different from the language in the Tentative Order, would shift the text from an optional compliance path to a manner of compliance requirement.</p> <p>However, the following additional language has been added to Appendix 3 section 3.1a. for clarification. <u>“For exceedances of water quality benchmarks for trash, evidence that Members are implementing a Minimum Frequency of Assessment and Collection (MFAC) Program will be considered when determining if agricultural discharges are causing or contributing to the exceedance. At a minimum, this evidence must include a demonstration that trash is not accumulating in deleterious amounts between trash assessments and collection events.”</u></p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|--|---|
| | | | <p>To the extent the comment also requests that trash be excluded from the trend analysis requirements in the Annual Monitoring Report (Appendix 3, section 4.2.), the Los Angeles Water Board declines to make this change. Appendix 3 doesn't specify the manner in which a trend analysis must be completed, only that it should. While the trash data collected at monitoring sites throughout the region may not lend itself to the same type of trend analysis as other constituents, differing methods may be employed and there are benefits to including that information.</p> |
| 2b.6 | VCAILG | <p>Include allowance for a later TMDL compliance date for selenium in Revolon Slough to reflect new information</p> <p>While all other metals are generally meeting the TMDL targets and allocations throughout the watershed, selenium in Revolon Slough has consistently exceeded the water column targets and load allocations based on the existing water quality objective in the California Toxics Rule (CTR). However, new information suggests that the TMDL</p> | <p>The Los Angeles Water Board does not agree that the Tentative Order needs to be updated to reflect potential future changes to TMDL compliance deadlines for selenium. As discussed in the staff report and throughout the RTC, for most TMDLs, TMDL requirements (including the compliance tasks and</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>requirements are no longer consistent with the latest science regarding selenium impacts on beneficial uses.</p> <p>The conceptual model, combined with the other special studies allowed VCAILG to identify the areas in the subwatershed to target for specific management practice implementation that would address the ways in which agriculture may mobilize natural selenium.</p> <p>However, the study demonstrated that these management practices may not need to be applied everywhere and fewer management practices may be needed if this study were used to modify the TMDL.</p> <p>As a result, VCAILG requests that the same footnote that is included for the Calleguas Creek Siltation TMDL be included for the Calleguas Creek Watershed and Mugu Lagoon Metals and Selenium TMDL to allow for a later deadline based on consideration of the submitted special study. Additionally, VCAILG requests that the development of individual farm level management practice plans (MPP) be allowed to use the results of existing special studies to justify selected management practices and guide the quantitative analysis.</p> <p><i>Requested Action:</i> VCAILG Comment Letter 7 August 18, 2023 Exhibit 1 - Technical Comments</p> | <p>deadlines) are derived from the TMDL elements and implementation schedule in the Basin Plan.</p> <p>Changes to any TMDL requirements in the Basin Plan must occur through a Basin Plan amendment. If a TMDL is amended for any reason, the Tentative Order may be reopened to revise TMDL related requirements accordingly. Therefore, the recommended footnotes in Appendix 3 and 5 to indicate that the Calleguas Creek Metals TMDL compliance deadline may be extended as a result of a TMDL reconsideration are unnecessary.</p> <p>The Los Angeles Water Board also declines to add a footnote indicating that the quantitative demonstration required by section 3.4.1 of Appendix 3 may include consideration of “submitted special studies.” “Quantitative demonstration” is sufficiently broad to include the results of these types of special studies and may be used by a Technical Service Provider in</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|--|---|
| | | <p><i>In Table 2 of the Tentative Order, Table 3 of Appendix 3 and Table 1 of Appendix 5 add an asterisk to the Calleguas Creek Watershed and Mugu Lagoon Metals and Selenium TMDL to reference the following footnote.</i></p> <p><i>“Additional time may be added to this TMDL deadline should a TMDL reconsideration revise the implementation schedule based on the results of special studies.</i></p> <p><i>Add the following footnote to Section 3.4.1 of Appendix 3, as shown in the Exhibit 2:</i></p> <p><i>“The quantitative demonstration may include consideration of submitted special studies in determining and justifying the management practice selection.”</i></p> | <p>the development and certification of a farm-level MPP as appropriate.</p> <p>No revision is necessary.</p> |
| 2b.7 | VCAILG | <p>Revise Benchmarks in Appendix 5 for Consistency with the TMDL Basin Plan Amendments</p> <p>VCAILG has identified some clarifying edits to Appendix 5 that are requested to provide consistency with the TMDL Basin Plan Amendments.</p> <p>For the Calleguas Creek Watershed OC Pesticides and PCBs, Metals and Selenium, Toxicity, and Salts TMDLs, the TMDL Basin Plan Amendments specify that the agricultural load allocations will be measured in the receiving water at the base of the subwatersheds at locations defined in the TMDL monitoring plan. VCAILG requests clarifications as shown in Exhibit 2 to make clear</p> | <p>The Los Angeles Water Board disagrees that most of the clarifying edits are necessary for the following the reasons.</p> <p>The compliance language for the Calleguas Creek Watershed OC Pesticides and PCBs, Metals and Selenium, Toxicity, and Salts TMDLs is already consistent with the Basin Plan. Page 7-197 of the Basin Plan specifies: <i>“Compliance with sediment based LAs listed below is</i></p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>which monitoring locations will be used for the TMDL assessment for these TMDLs.</p> <p>In addition, in the Calleguas Creek Metals and Selenium benchmark tables, there is a footnote b for selenium that has no associated text. This reference can be deleted.</p> <p>For the Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to Address Benthic Community Effects, the agricultural load allocations only apply to Malibu Creek and three tributaries: Cold Creek, Stokes Creek, and Las Virgenes Creek. VCAILG requests that the Appendix include the waterbodies to which the TMDL benchmarks apply to match the TMDL.</p> <p><i>Requested Actions:</i></p> <p><i>Add the following language (as shown Exhibit 2) to the Calleguas Creek Watershed OC Pesticides and PCBs, Metals and Selenium, Toxicity and Salts TMDLs discussion in Appendix 5:</i></p> <p><i>“TMDL benchmarks are measured at the base of each subwatershed at receiving water monitoring locations defined in the Calleguas Creek Watershed TMDL QAPP.”</i></p> <p><i>Delete reference to footnote “b” in tables 13 and 17 in Appendix 5.</i></p> | <p><i>measured as an in-stream annual average at the base of each subwatershed”</i>. This language is directly incorporated into Appendix 5 and the requested action to add <i>“locations defined in the Calleguas Creek Watershed TMDL QAPP”</i> for this TMDL is not justified. The Los Angeles Water Board notes that, as a practical matter, VCAILG’s members will determine compliance with this TMDL at the monitoring locations in VCAILG’s approved MRP unless and until individual discharge limitations are triggered.</p> <p>The Los Angeles Water Board also declines to delete footnote b from tables 13 and 17. Footnote b has associated text included at the bottom of Page 6 of Appendix 5.</p> <p>Appendix 5, Table 27 (now Table 20) title is updated to include “...in Malibu Creek and main tributaries (Cold Creek, Stokes Creek and Las Virgenes Creek).</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|--|---|
| | | <p><i>Add the following language to the Malibu Creek and Lagoon TMDL for Sedimentation and Nutrients to Address Benthic Community Effects TMDL section of Appendix 5:</i></p> <p><i>“The TMDL Benchmarks apply to discharges to Malibu Creek, Cold Creek, Stokes Creek, and Las Virgenes Creek.”</i></p> | |
| 2b.8 | VCAILG | <p>Modify Notification Requirements to Support Effective Implementation</p> <p>VCAILG supports identifying a workable way to expedite the process for implementation of discharge limitations after TMDL deadlines have passed. However, the process outlined in the Tentative Order Appendix 3 in Section 3.2 presents some challenges for effective notification and outreach to growers.</p> <ul style="list-style-type: none">• The proposed notification process does not account for Los Angeles Regional Water Board determination of the Discharger Group members to which discharge limitations apply after a TMDL benchmark exceedance has been identified at a TMDL monitoring location. VCAILG does not have the authority to make this determination and cannot notify and provide outreach to growers until this step occurs.• The proposed notification timeline for TMDL benchmark exceedances does not account for the transition to a new Monitoring and Reporting Plan (MRP) to be submitted 6 | <p>The notification requirements laid out in Appendix 3, Section 3.2 are not intended to expedite the implementation of discharge limitations. Rather the required notices are included to document the quantifiable milestones necessary for the implementation program to be successful (as required by the California Nonpoint Source Pollution Implementation and Enforcement Policy).</p> <p>While there may be some challenges as the Irrigated Lands Program transitions from utilizing the regulatory tool of Conditional Waiver to the General WDR, the proposed notification requirements are structured to provide more communication with growers in an</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <p>months after the adoption of the Tentative Order and changes to the analysis process and responsibility areas that may occur as a result of the new MRP.</p> <ul style="list-style-type: none">• The proposed notification process will result in numerous notifications to growers throughout the year that is likely to create confusion for implementing Track 1 or Track 2 effectively. The proposed process will likely result in growers receiving separate notifications for dry and wet weather TMDL benchmark exceedances for the same pollutant and require them to provide multiple notifications to the Regional Water Board of their decision regarding implementation of Track 1 or Track 2, as well as submitting revised/additional MRPs.• The proposed notification process does not account for all of the situations in which a TMDL benchmark exceedance cannot be calculated within 30 days. For example, some TMDL benchmarks require flow data from an entire year to determine when the allocations apply, there may be unforeseen laboratory QC issues, and additional review time needed for laboratory data collected as part of a TMDL stakeholder group effort. <p>To address these concerns, VCAILG proposes the following process for notifications.</p> <ul style="list-style-type: none">• On December 15, 2023, with the submittal of the VCAILG Annual Monitoring Report, VCAILG will provide the Los | <p>effort to provide clarity and transparency.</p> <p>As discussed in response to comment 2a.2, the location of a grower in a Responsibility Area will be used to determine whether they are subject to a TMDL. Time has been built into the schedule of MPP submittal (Appendix 3, Table 4) to allow for growers not geographically located within the TMDL boundaries to be assigned to a new Responsibility Area.</p> <p>The proposed notification process does not need to account for a transition to a new monitoring and reporting plan as that is a separate required component of the Tentative Order and does not need to be completed before required notices begin. While the deliverables contained in Appendix 3, Section 3.2 can be added to the new MRP, they don't have to be and can be addressed separately.</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <p>Angeles Water Board with a summary of the TMDL benchmark exceedances that occurred under the 2016/2021 Waiver, including the laboratory reports and tabulated results from the 2022-23 monitoring year. As soon as the requested TMDL area shapefiles are received², VCAILG will begin educating growers in TMDL watersheds on the new requirements of the Order and the options for complying with discharge limitations.</p> <ul style="list-style-type: none">• The Los Angeles Water Board will notify VCAILG of the members that are subject to discharge limitations as a result of those TMDL benchmark exceedances. VCAILG will provide information as needed to support the Los Angeles Water Board in making that determination.• Upon notification by the Los Angeles Water Board of the members subject to discharge limitations, VCAILG will notify and begin outreach to the identified members.• All future new TMDL benchmark notifications identified under the Tentative Order will follow the following process:<ul style="list-style-type: none">o VCAILG will notify the Los Angeles Water Board of the TMDL benchmark exceedances annually on December 15th in the Annual Monitoring Report (AMR).o The Los Angeles Water Board will identify members subject to discharge limitations as a result of the TMDL benchmark exceedances. | <p>Some changes have been made to Appendix 3, table 4 to account for updates to the proposed Track 2 MPP submittal schedule. Those changes intersect with the notification requirements of Appendix 3, Section 3.2. Therefore, some changes have been made to Appendix 3, Section 3.2 and Section 13.2 of the staff report to provide clarity.</p> <p>The exceedance notification process was revised upward to thirty days between the administrative draft and the tentative draft. The thirty-day benchmark exceedance notification does account for most of the situations in which a benchmark exceedance is calculated. While some exceptions might fall outside that window, it should be enough time to review data and determine exceedances for most situations. However, given that VCAILG has had some QA/QC issues recently (see comment 7.3), the section has been revised. In addition to the Calleguas Creek Metals TMDL,</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>o Within 30 days of receiving the notification from the Los Angeles Water Board, VCAILG will notify identified members of the Los Angeles Water Board's determination and begin outreach.</p> <p>The proposed notification revisions will ensure that TMDL benchmark exceedances that have already occurred are addressed as quickly as possible and set up a structure for effectively addressing any future TMDL benchmark exceedances with minimal confusion to members. VCAILG members are used to a communication process where they are notified after completion of the annual monitoring report as to any new requirements to which they will be subject. Changing the date for notification of benchmark exceedances that occurred under the 2016/2021 Waiver from within 30 days of the Tentative Order Adoption to the December 15th AMR will effectively result in a delay of notification of 45 days. However, it will avoid VCAILG having to notify growers about benchmark exceedances through a different process than they are used to and prior to being able to educate them about the adoption of and new requirements in the Tentative Order. Additionally, it will require VCAILG to expedite analysis of benchmark exceedances immediately after adoption of the Order while we are also preparing the rest of the annual report and trying to educate growers about the new requirements. By allowing the extra 45 days, significant disruption of VCAILG procedures and member confusion will be avoided.</p> | <p>Calleguas Creek Salts TMDL, Calleguas Creek Siltation TMDL, and Santa Clara River Bacteria TMDL will be added to the subset that may report the exceedance in the AMR. For the rest of the constituent data, Ventura County Discharger Groups have 45 days from receiving lab results to notify the Los Angeles Water Board of exceedances.</p> <p>It should be noted that Appendix 3, Section 3.2 does not explicitly include when the Discharger Group is to notify the grower of the exceedance, only that the grower has two months to pick a compliance path and submit a written notice to the Los Angeles Water Board. The time schedule in the staff report actually indicated that the members will be notified with the annual report.</p> <p>Appendix 3, Section 3.2.a has been revised to allow VCAILG to submit the benchmark exceedances under</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>The requirement to identify a new TMDL benchmark exceedance within 30 days of receipt of results from the laboratory does not account for situations in which questions or quality assurance concerns arise once the data are received and laboratory adjustments or reanalysis is needed. Additionally, several other TMDL benchmarks in addition to the Calleguas Creek Metals and Selenium TMDL cannot be assessed upon receipt of the laboratory results. These include:</p> <ul style="list-style-type: none">• Calleguas Creek Salts TMDL. This TMDL is assessed using continuous monitoring equipment that requires an annual calibration assessment and information on daily flow rates from the entire monitoring year to determine when the allocations apply.• Santa Clara Bacteria TMDL. The evaluation of whether or not the allowable exceedance days have been exceeded for the year requires an entire year of monitoring data.• Calleguas Creek Siltation TMDL. The TMDL benchmark is an annual load reduction. <p>By including a requirement to notify growers within 30 days of a new benchmark exceedance, growers will receive notifications from VCAILG up to five times per year (after four monitoring events and after the annual report analysis) and potentially more if results for different constituents are received at different times (this is almost certain to occur as samples are currently sent to three separate laboratories by VCAILG). Furthermore, Calleguas Creek Watershed TMDL sampling may take place during different monitoring events,</p> | <p>the 2016/2021 waiver on December 15, 2023.</p> <p>The TMDL shapefiles have been sent to VCAILG and LAILG.</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>resulting in the potential for different notification timelines for that watershed. These notifications could include separate notifications for the same constituents during a monitoring year if benchmark exceedances are observed during both dry and wet conditions. Growers would then have two months to notify the Los Angeles Water Board of their intent to pursue Track 1 or Track 2 to address these exceedances after every notification. This could result in multiple notifications to the Los Angeles Water Board from each member every year. However, the timeline for developing the MPP is established in Table 4 in Appendix 3 and does not change based on when the notifications occur. As a result, changes to the notification timeline will not effectively change the timeline for implementation and will reduce a significant burden to VCAILG for analysis of benchmark exceedances throughout the year rather than annually, significantly reduce member confusion about their requirements, and reduce the need for the Los Angeles Water Board to process and track multiple notifications from VCAILG and growers every year.</p> <p>The proposed revisions also clarify the responsibilities of VCAILG and the Los Angeles Water Board by including a step where the Los Angeles Water Board makes a determination that the TMDL benchmark exceedances have triggered discharge limitations and the members to which the discharge limitations apply. As noted in the comment letter, this step is necessary to maintain the integrity of VCAILG and the trust of the members.</p> | |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|---|--|
| | | <p><i>Requested Action: Make the changes in Exhibit 2 to Section 3.2 of Appendix 3.</i></p> <p>2 On May 23, 2023, VCAILG provided Los Angeles Water Board staff with a list of adopted Ventura County TMDLs detailing whether a TMDL shapefile existed, the source of such shapefile, any requests for confirmation by staff, and relevant notes.</p> | |
| 2b.9 | VCAILG | <p>Modify Table 4 of Appendix 3 to Align with the Notification Requirements and Clarify that MPPs are Only Required for Areas Subject to TMDL Requirements</p> <p>VCAILG appreciates the prioritization timeline for submittal of the Track 2 MPPs described in Table 4 of Appendix 3. However, as discussed in the comment letter in critical comment #2, the table erroneously applies TMDL requirements to growers that are not subject to TMDL requirements. Additionally, the proposed timelines do not fully account for the TMDL deadlines, especially in the Calleguas Creek Watershed, do not accurately include the TMDL benchmark monitoring locations in the Calleguas Creek Watershed, and are not fully aligned with the notification process in the Tentative Order.</p> <p>As noted above, VCAILG is proposing adding a step for the Los Angeles Water Board to make a determination of which members are subject to discharge limitations when a TMDL benchmark is exceeded after a TMDL deadline. Currently</p> | <p>Priority order and MPP submission dates in Appendix 3, Table 4 have been updated to reflect program goals, schedules and TMDL compliance dates. The first 12 months post Order adoption will mostly focus on grower education, grower enrollment and completion of the drinking water monitoring requirements. It will also include the submittal of the first two priority groups.</p> <p>See comment 2a.2. In general, the responsibility areas align with the areas covered by the TMDLs. There are some growers and parcels included in the responsibility areas that are not subject to the TMDLs however the schedule includes time</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>Table 4 identifies responsibility areas associated with the current VCAILG Monitoring and Reporting Program (MRP). However, these responsibility areas were required to be developed based on HUC-12s and did not consider the TMDL boundaries. As a result, the responsibility areas identified in Table 4 are not necessarily the members and parcels that will be subject to discharge limitations. Additionally, the Calleguas Creek Watershed has TMDL benchmarks that are assessed using monitoring data collected under the Calleguas Creek Watershed TMDL monitoring program rather than the VCAILG monitoring program. These monitoring locations are aligned with slightly different subwatersheds/ responsibility areas than are currently defined in Table 4. As a result, VCAILG requests that the responsibility areas column in Table 4 be modified to be TMDL subwatersheds instead of responsibility areas and the last column with the number of parcels in the responsibility area be deleted to reflect the needed step to determine which parcels are subject to the discharge limitations.</p> <p>Table 4 is also not linked to the TMDLs that would trigger benchmark exceedances at each location. VCAILG requests that a column be added to note the TMDLs that are applicable to the site and MPP timeline development. This column will clarify that the initial MPP development timelines are not applicable to the TMDL deadlines that occur in the future (2025, 2026, and 2029) as these would not be able to be incorporated into the MPPs developed on</p> | <p>for the those growers to be moved to a new responsibility area.</p> <p>A lower Ventura River RA has been added to the table which would include V02D_SPM which was subject to individual discharge limitations under the 2016/2021 Waiver.</p> <p>Additional language has been added to Appendix 3, Section 3.4 to clarify when the MPPs will be due for TMDL benchmark exceedances that occur after the MPPs defined in Table 4 are completed. Following member notification to the Los Angeles Water Board of their intent to comply through Track 2, the member will have 6 months to submit an MPP.</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>the timelines shown in Table 4. The table also appears to be missing the lower Ventura River monitoring location V02D_SPM for the Ventura River Algae TMDL. VCAILG requests that this site be added to priority 1.</p> <p>VCAILG requests some slight modifications to the proposed prioritization and timelines. As noted in the previous comment, after VCAILG notifies the Los Angeles Water Board of TMDL benchmarks that occurred under the 2016/2021 Waiver, time is needed to identify the members subject to discharge limitations. Given the need for this step, additional time is needed for submittal of the first and second priority MPPs.</p> <p>Additionally, the Calleguas Creek Watershed has unique circumstances that impact the approach and timelines for the TMDL benchmark notifications. The TMDL benchmark exceedances under the 2016/2021 Waiver that occurred after the respective compliance date were limited in geographic scope and did not occur in the subwatersheds which have the first MPP due dates. However, the Calleguas Creek Nitrogen TMDL will now become effective on the effective date of the Order with the change to the compliance date proposed in the Tentative Order³ and the Calleguas Creek Salts TMDL will become effective in December 2023. If there are exceedances of TMDL benchmarks for these TMDLs, they would be reported in the December 2024 annual monitoring report⁴ under the proposed notification schedule. As a result, it would not be</p> | |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>possible to complete a MPP prior to mid-2025 for these TMDLs. Modifying the MPP due dates for Calleguas Creek subwatersheds will have no impact on MPP development because the subwatersheds that are higher priority and have earlier MPP due dates have not had any TMDL benchmark exceedances under the 2016/2021 Waiver (pending analysis of results from the 2022-23 monitoring year).</p> <p>Finally, VCAILG requests that language be added to Section 3.4 to clarify when the MPPs will be due for TMDL benchmark exceedances that occur after the MPPs defined in Table 4 are completed. VCAILG requests that future MPPs be due 12 months after a member notifies the Los Angeles Water Board of their intent to comply through Track 2.</p> <p><i>Requested Actions: Make the changes in Exhibit 2 to Table 4 of Appendix 3, including, but not limited to:</i></p> <ul style="list-style-type: none">• Add a column identifying the TMDLs that apply to each monitoring location• <i>Modify the monitoring locations in the Calleguas Creek Watershed to the TMDL monitoring locations</i>• Change the responsibility area column to be TMDL subwatersheds• Change the date for the priority 1 MPP to August 2024 | |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <ul style="list-style-type: none">• <i>Change priority 2 MPPs to be due in December 2024 and move the San Antonio Creek MPPs to priority 2.</i>• <i>Adjust the Calleguas Creek priorities as shown in Exhibit 2. These adjustments result in the removal of priority 3 and the completion of the MPPs in priority 4 and later on the same timeline as in the Tentative Order.</i> <p>VCAILG Comment Letter 12 August 18, 2023 Exhibit 1 – Technical Comments</p> <ul style="list-style-type: none">• <i>Add language to define that MPPs for TMDL benchmark exceedances for TMDLs not in Table 4 will be due 12 months after a member notifies the Los Angeles Water Board that they will comply through Track 2.</i> <p>³ In the 2016/2021 Waiver, the deadline for this TMDL was October 14, 2025.</p> <p>⁴ Even if the proposed notification schedule is not accepted, the Salts TMDL benchmark exceedances can only be reported annually due to the monitoring and TMDL requirements. The first sampling events that could identify TMDL benchmark exceedances for the Nitrogen TMDL would occur in November 2023, lab results and identification of TMDL exceedances would likely not occur before March 2024, members subject to the limitations would then need to be identified and notified and they would have two months to respond. As a result, even under a different notification schedule, the MPPs for the Calleguas Creek Watershed would need to be delayed.</p> | |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| 2b.10 | VCAILG | <p>Modify Required Implementation Timelines for Management practices in the Tentative Order to Match Staff Report</p> <p>The proposed maximum timelines for implementation of management practices presented in Section 3.4.3 of Appendix 3 do not account for the planning, design, potential permitting and realities of implementation. Additionally, the deadlines are shorter than the timelines presented in Table 40 in the Staff Report. The Staff Report does not include any rationale for the selection of these timelines and justification that the actions can be completed within the timelines.</p> <p>The timeline for structural management practices does not account for time to design and permit the projects, if needed. While these projects are likely to be on a smaller scale than projects being constructed to address urban stormwater discharges, when adopting the Basin Plan Amendment TMDL extensions for multiple TMDLs in the Los Angeles Region, the staff report supporting the extensions noted that treatment projects can take 1 to 2 years for design and 3 to 5 years for construction.⁵ Even taking into account the smaller scale of the agricultural treatment management practices, the steps are likely to be similar. The Staff Report provides no justification for why agricultural treatment projects can be completed within six months to 1 year when stormwater treatment projects are anticipated to take 4 to 7 years to complete.</p> | <p>The Track 2 compliance option is being provided to growers in lieu of direct enforcement of exceedances of individual discharge limitations. The timelines in Section 3.4.3 were based on TMDL deadlines and the imperative to achieve water quality benchmarks in the shortest time possible, as required by the Nonpoint Source Pollution Policy.</p> <p>The proposed timelines in Section 3.4.3 of Appendix 3, have taken into consideration planning, design and potential permitting. Structural management practices can include a wide range of activities from mulching to treatment ponds. Given that growers should have already been implementing many of these management practices as part of the WQMP process established in the 2016/2021 Waiver and the fact that the average farm size is 7.9 acres, the Los Angeles Water Board disagrees that the timelines ignore the realities of implementation. Nevertheless, the Los Angeles Water Board recognizes that</p> |
|-------|--------|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>VCAILG requests that the Tentative Order be modified to allow more time for implementation of control measures to reflect the realities of project implementation</p> <p><i>Requested Actions:</i> <i>Make the following changes to Section 3.4.3 of Appendix 3 as shown in Exhibit 2:</i></p> <ul style="list-style-type: none">• <i>Change the timeline for Vegetated management practices from three months to six months</i>• <i>Change the timeline for structural non-treatment management practices from six months to 1 year.</i>• <i>Change the timeline for treatment management practices from 1 year to 2 years.</i> <p>⁵ Consideration of Extension of Final TMDL Implementation Deadlines for Certain TMDLs in the Los Angeles Region Staff Report, Los Angeles Regional Water Quality Control Board, March 2021.</p> | <p>management practice implementation may be impacted by the unique circumstances at each farm. As such, the section includes language allowing for flexibility, specifically “The Executive Officer may approve longer schedules on a case-by-case basis”.</p> <p>The commenter’s reliance on municipal stormwater implementation timeframes is misplaced. As the commenter acknowledges, the scale of these projects are completely different. The projects discussed in the staff report for the TMDL extension project were multi- jurisdictional storm water projects, which the commentator is trying to equate with farm-level projects (as per comment 2.b.11, the average size of a farm in Ventura County is only 7.9 acres in size and under the control of a single grower). Additionally, the extensions granted to MS4 permittees were under wholly different circumstances. The Los Angeles Water Board considered these</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | | <p>TMDL extensions at the height of the COVID-19 pandemic when supply chain disruptions and the fiscal impact of the COVID-19 pandemic rendered near-term project implementation uncertain. No change has been made.</p> |
| 2b.11 | VCAILG | <p>Include Provisions to Support Different Requirements for Low Priority Parcels</p> <p>A geographical prioritization for Farm-Level Management Practice Plan (MPP) due dates is outlined in Tentative Order Appendix 3 Table 4. However, while this prioritization schema may address some of the impacts due to the proposed revision of certain TMDL compliance dates, it does not adequately address the inequity of adversely impacting small and socially disadvantaged farmers or the need to focus professional expert resources where the impact will be greatest. To address these two issues, we are proposing an additional layer of prioritization based on farm size and have included the following language in our Appendix 3 red-line edits:</p> <p><i>Requirements for farm-level MPPs shall be determined by high or low field prioritization. Low priority fields are based on one of the following:</i></p> | <p>The commentor does not present a recommendation for differentiating the priority (or timing) of compliance, rather the commentor has proposed a two-tiered level of compliance, with a subset of dischargers subject to less stringent requirements.</p> <p>The Los Angeles Water Board disagrees that less stringent requirements are warranted on the basis of costs. While the staff report estimates that it could cost \$38,530 to develop a farm-level MPP if a grower utilized a private Technical Service Provider (TSP) with the required expertise, NRCS and RCD are also available to provide these services at no cost. It is noted that local NRCS and RCD offices have</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <ul style="list-style-type: none">• <i>Diversified socially disadvantaged growers, as defined by the Farmer Equity Act of 2017, with (1) a maximum total acreage of 45 acres and (2) gross annual sales of less than \$350,000, or</i>• Growers with a maximum total acreage of 20 acres. <p>To support this additional prioritization approach, VCAILG conducted an analysis of Ventura County farm sizes.</p> <p>While the figures vary depending on the Responsibility Area, at the County level 57% of farms are 20 acres or less but account for only 10% of the overall irrigated acreage. This clearly demonstrates the significant number of individual small farms, but their small proportion in terms of overall agricultural acreage in Ventura County.</p> <p>Of the approximately 1,119 farms that are 20 acres or less, the average size is 7.9 acres and the median size is 7.0 acres. For a grower of a 7-acre farm, the Staff Report estimated \$38,530 cost of creating a Track 2 farm-level MPP would be detrimental to their farming operation. These growers need a compliance pathway that is achievable and within the economic confines of a small farmer.</p> <p>The farm-size prioritization process, as proposed in the Appendix 3 red-line document, would create separate MPP requirements for low priority fields. Under the low-priority MPP requirements, a grower would complete a template-based MPP on which they would list the management</p> | <p>restricted resources. However, it is recommended that regional stakeholders develop and submit a proposal for Clean Water Act section 319(h) grant funds to help fund resources for MPP development. The Los Angeles Water Board staff is available and willing to provide support for these grant submissions.</p> <p>The Los Angeles Water Board shares the commenters concerns, however, that costs of MPP development could uniquely affect certain disadvantaged farms. As such, additional accommodation(s) for diversified socially disadvantaged growers are warranted. However, it would be more appropriate to provide this subset of growers with additional time to develop a farm-level MPP (and therefore obtain free or low cost services through NRCS or RCD) than to reduce the needed tasks to comply as rich and poor farms alike can contribute to water quality impairments. In recognition of the fact that NRCS and RCD's services and resources are limited,</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>practices currently being implemented and identify additional TMDL constituent-specific management practices that will be implemented. This low-priority process would differ from the high-priority process by removing the need for a professional expert and/or consultant to develop the MPP, thereby significantly reducing the compliance cost to small farmers.</p> <p>Additionally, a significant benefit of the farm-size prioritization process is that it will reduce the number of farmers requesting the assistance of professional experts. The time required to initiate a contract with the farmer, conduct a site assessment, and develop an MPP will be substantially similar for small or large farms. While not to underscore the value of these farm-level assessments, the workload involved is significant. Since the 2018 Farm Bill took effect (2019 – 2023), the NRCS Oxnard Field Office, which serves all of Ventura County and portions of neighboring counties, has developed an average of 24 conservation plans per year that have moved forward to Environmental Quality Incentive Program contracts. By reducing the sheer number of farmers needing these services by 57%, the already limited resources of NRCS, RCD, and other professional experts will be able to focus their services on the remaining farmers who operate on 90% of the County's irrigated acreage and where the opportunity for impact will be most significant.</p> <p><i>Requested Action:</i></p> | <p>the Los Angeles Water Board has provided additional time for diversified socially disadvantaged growers to submit their MPPs so that they have adequate time to access these resources.</p> <p>The Los Angeles Water Board declines to incorporate the commenter's proposed prioritization based on acreage. According to the farm size analysis discussed in the comment, the average size of a farm in Ventura County is 7.9 acres, yet the commentator would propose 20 acres as a threshold, which would account for 57% of farms in the county. If the Los Angeles Water Board adopted this proposal, almost 60% of farms would not be required get certifications that the management practices being implemented on their farm were in fact sufficient or appropriate to address known water quality exceedances. The template MPP described by the commenter does not appear to be meaningfully different from the farm evaluation</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | <p><i>Add a new section to Appendix 3 to define low and high priority farms and add new requirements to Section 3.4.1 in Appendix 3 for low priority farm MPPs, as shown in Exhibit 2.</i></p> | <p>plans or surveys already completed by VCAILG members under the 2016/2021 Waivers. While submission of this information directly to the Los Angeles Water Board rather VCAILG would improve transparency, transparency alone is insufficient to achieve meaningful gains in water quality.</p> <p>Appendix 3, Table 4 has been updated to provided additional time for diversified socially disadvantaged growers to submit their MPPs.</p> |
| 2b.12 | VCAILG | <p>Expand the List of Technical Service Providers that Can be Used to Certify an MPP</p> <p>Appendix 3 Section 3.4.2 specifies requirements for professionals able to certify MPPs.</p> <p><i>Requested Actions:</i> <i>Add the requested additional professional experts to Section 3.4.2 of Appendix 3 as shown in Exhibit 2.</i></p> | <p>Water Board staff is aware that NRCS and RCD have limited resources. It is for this reason the Tentative Order incorporated technical service provider flexibility by including the following language in Appendix 3 "...RCD or NRCS staff, or <i>equivalent professional expert</i> with knowledge and experience..." (emphasis added).</p> <p>No change has been made.</p> |
| 2b.13 | VCAILG | <p>Modify the Requirement to Include Structural Management Practices to Reflect the Best Professional Judgement of the Technical Advisor</p> | <p>The Los Angeles Water Board recognizes there is no "one-size-fits-all" solution, hence the inclusion of</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>While VCAILG acknowledges that structural management practices may be necessary, non-structural management practices may be the most effective depending on the pollutant and site-specific conditions.</p> <p>Non-structural management measures can be highly effective in addressing the potential discharge of pollutant from the site, as discussed in the Agricultural BMP database developed by the Water Research Foundation.</p> <p>The report also notes that there is no “one-size-fits-all” solutions and practice effectiveness is impacted by site-specific conditions.</p> <p>Given the need to consider site-specific and pollutant-specific conditions, professionals certifying the MPPs should be able to determine when structural management practices are necessary and not be mandated to include structural management practices in all MPPs if it is not warranted for a particular situation.</p> <p><i>Requested Actions: Make the following changes to Section 3.4.1 of Appendix 3 as shown in Exhibit 2.</i></p> <p><i><u>“The farm-level MPP shall <u>should</u> include structural management practices <u>when recommended by RCD, NRCS, or equivalent professional expert.</u>”</u></i></p> | <p>two compliance paths in the Tentative Order.</p> <p>However, if a grower chooses to pursue Track 2 to demonstrate compliance, structural management practices are to be included.</p> <p>As discussed in the staff report, the farm surveys completed by members show existing widespread adoption of nonstructural management practices and yet water quality monitoring data show consistent water quality benchmark exceedances throughout the region. Given the water quality data and survey data collected throughout the program, structural management practices are necessary. The Track 2 compliance option therefore incentivizes structural management practice implementation by deeming participating farmers in compliance with the individual discharge limitations as long as they develop and implement their MPP (including any necessary adaptive management). This substantial</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|--|
| | | <p>⁷ 2020 Update: Agricultural Best Management Practices Database From The Water Research Foundation and The National Corn Growers Association. Water Research Foundation Project No. SIWM18R16/4847.</p> | <p>benefit is granted because the Los Angeles Water Board wants to encourage growers to move beyond non-structural practices. The level of rigor and accountability provided by Track 2 is needed to ensure that farms achieve load allocations in the receiving waters as quickly as possible.</p> |
| 2b.14 | VCAILG | <p>Allow an Exception to the Requirement for Developing a Quantitative Demonstration in the MPP</p> <p>However, it may not be possible to provide a quantitative demonstration for all management practices. Effectiveness information on agriculture management practices is currently limited and not all potential management practices have been assessed.</p> <p>In cases where a quantitative demonstration is not practicable, as determined by the professional expert helping to develop the MPP, a professional expert should be allowed to provide an alternative justification of the efficacy of the selected management practices.</p> <p><i>Requested Actions: Make the following changes to Section 3.4.1 of Appendix 3 as shown in Exhibit 2:</i></p> | <p>No change has been made.</p> <p>The Los Angeles Water Board disagrees that any revisions are necessary for the “quantitative demonstration” requirement. The Track 2 requirement of “quantitative demonstration” is in keeping with the EPA 9 Element Watershed Plan and Nonpoint Source Pollution guidance. As per Chapter 8 of the <i>EPA Handbook for Developing Watershed Plan to Restore and Protect Our Waters</i> (2008), the quantity of pollutant load reductions can be estimated.</p> <p>More specifically, it states,</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | <p><i>“A quantitative demonstration that all the management practices currently being implemented and that will be implemented will cumulatively address the constituent(s) of concern <u>to the extent practicable</u>. If a quantitative demonstration is not possible, justification of management practice efficacy, based on best professional judgement of the professional expert, must be provided. The assessment shall be based on the location, size, and volume retention capacity or pollutant reduction efficiency of the management practices.”</i></p> | <p><i>“...estimate pollutant loads from watershed sources to target future management efforts. This step is essential to eventually satisfy element b (i.e., necessary load reductions) of the nine minimum elements...This element is the component most often missing from current and past watershed plans, although it is one of the most important. Without knowing where the pollutants are coming from, you can't effectively control them and restore and protect your watershed. The loading analysis provides a more specific numeric estimate of loads from the various sources in the watershed. By estimating source loads, you can evaluate the relative magnitude of sources, the location of sources, and the timing of source loading. The loading analysis can help you plan restoration strategies, target load reduction efforts, and project future loads under new conditions.”</i></p> <p>While the commentor is correct that not all potential management</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>practices have been assessed, the term “quantitative demonstration” is inherently broad. The Los Angeles Water Board is not requiring farmers to submit MPPs based on any specific models or statistical tools or to make a quantitative demonstrative to any degree of scientific certainty. The professional expert certifying and preparing an MPP has discretion to use the many publicly available tools to estimate the quantity of pollution reduction resulting from the MPP and should have the skillset to conduct an analysis of the efficacy of the proposed management practices that relies on numerical data. The intent of the quantitative demonstration requirement is for participating growers to realistically understand the level of MPP implementation that is needed to achieve water quality. A well-done plan at the outset should minimize the risk of an endless cycle of “guess and test” in management practice implementation.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | | No revision is required. |
| 2b.15 | VCAILG | <p>Modify the Adaptive Management Requirements to Consider Impacts of Agricultural Dischargers not Complying with the Order</p> <p>VCAILG members that have fully implemented MPPs should not be required to implement additional management practices if it is likely that the lack of water quality improvement at a VCAILG monitoring location is due to parcels in the drainage area that are not in compliance with the requirements of the Tentative Order. If a portion of a monitoring location drainage area is composed of parcels that have not enrolled in the Tentative Order or have not implemented individual monitoring or MPPs, enforcement against these members to bring them into compliance with the Order should be pursued prior to requiring additional actions by members that are fully compliant with the Order.</p> <p><i>Requested Actions: Make the following changes to Section 3.4.4 of Appendix 3 as shown in Exhibit 2.</i></p> <p><i><u>“If inspections or Discharger Group monitoring data show water quality is not improving at the group monitoring site an updated MPP, is may be required by the Los Angeles Water Board. Determinations of the need for an updated MPP will consider the impact of parcels draining to the monitoring site that are not enrolled in the Order and Members that are not fully complying with the Order Provisions on the lack of water quality improvement.”</u></i></p> | <p>Section 3.4.4 was added to Appendix 3 to assist in ensuring the Tentative Order would achieve water quality benchmarks and provide dischargers some reassurance that if they pursued activities to be deemed in compliance they would not be enforced upon if water quality monitoring did not demonstrate improvements. It was not included to signal one implementation of an MPP was automatically adequate enough for a discharger to remain in compliance.</p> <p>Furthermore, individual discharger accountability is not dependent on the actions or inaction of other dischargers.</p> <p>For clarification purposes, Appendix 3, Section 3.4.4 has been changed to:</p> <p>If inspections or Discharger Group monitoring data show water quality is not improving at the group monitoring site, an updated MPP is</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|--|
| | | | required <u>unless a Member can demonstrate that it has eliminated all discharges to surface waters of the constituent(s) addressed by the MPP.</u> |
| 2b.16 | VCAILG | <p>Reevaluate the individual monitoring approach to limit unnecessary and burdensome requirements on growers.</p> <p>we continue to assert that individual monitoring is not an effective approach to manage water quality benchmark exceedances. Concerns with the individual monitoring approach were raised at multiple meetings with Los Angeles Water Board staff in advance of every Conditional Waiver or Conditional Waiver extension adoption as well as in formalized comment letters. Track 1 should still be a viable compliance option for addressing TMDL benchmark exceedances after the deadline.</p> <p>VCAILG finds individual monitoring to be inequitable due to how the burden of such a program is not scaled based on the size of the grow operation, but is evenly applied across all growers, regardless of size. The uneven distribution of costs could be alleviated via a cost sharing mechanism; however, the individual monitoring requirement has no such mechanism included as is currently written... from an equity standpoint, additional sampling requirements and therefore increased costs, would further exacerbate the already</p> | <p>VCAILG's repeated objections to individual monitoring is acknowledged and contained in the historical and current record of the Irrigated Lands Program. However, the Los Angeles Water Board continues to disagree that individual monitoring is unnecessary, burdensome, or infeasible for irrigated agriculture. While individual monitoring of farms will look different than monitoring at a traditional point source, the Los Angeles Water Board's longstanding implementation of the Irrigated Lands Program has reaffirmed the need and the value of individual monitoring. Many of the surface waters in the Los Angeles Region are impaired for constituents associated with irrigated agriculture. A number of TMDLs in the Los</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>existing inequities present with the individual monitoring approach.</p> <p>Furthermore, exceedances triggering a requirement for more monitoring sends the message to VCAILG members that willingness to comply is likely to result in more enforcement and higher costs.</p> <p>Whereas non-participating growers are less likely to face consequences as a result of benchmark exceedances. This message is communicated further by not considering a grower's history of compliance and management measure implementation prior to subjecting them to individual monitoring requirements.</p> <p>An expert panel convened by the State Water Resource Control Board and another by the Central Valley Regional Water Quality Control Board both were tasked with evaluating various water quality monitoring approaches, including individual monitoring. It was the conclusion of both panels that individual monitoring is not the recommended approach. Additionally, it is widely known that discharges from irrigated agriculture are highly dependent on a wide array of variables which lends individual samples alone inaccurate in characterizing the broader discharge landscape.</p> <p>Further, VCAILG has identified in the past that the individual monitoring requirement is likely not in compliance</p> | <p>Angeles Region identify irrigated agriculture as source of pollutants and assign load allocations. Most of the TMDLs included in the proposed Tentative Order are for water quality impairments that have been on the Federal Clean Water Act section 303(d) list of impaired waterbodies since 1996. All of the TMDLs identify discharges from irrigated agricultural lands as significant sources, and in some cases as the primary source, of the water quality impairments. The TMDLs address highly valued waterbodies with sensitive aquatic life and human health beneficial uses. The TMDLs already contain lengthy implementation schedules that consider the difficulty in addressing sources.</p> <p>The continuation of business as usual at most farms will not achieve the necessary water quality to support beneficial uses that are vital to the community and the environment including but not limited to: contact recreation, municipal supply, wildlife habitat, and</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>with the Porter-Cologne’s “reasonableness standard”. Elements of the individual monitoring requirement which likely jeopardize the requirements from being “reasonable” include that it fails to meaningfully address improvements in water quality, and therefore lacking substantive and reasonable protections of beneficial uses (Wat. Code, §§ 13000, 13241, 13263, 13267(b)). Further, now quoting from VCAILG’s 2021 Technical Attachment to Comments, “technical and monitoring reports cannot be overly burdensome. Pursuant to Water Code section 13267, ‘the burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports.’” We argue that with no designated plan built into the individual monitoring requirements for meaningfully improving water quality (and therefore protecting beneficial uses) combined with a significant cost burden to growers that this approach, as it is written, not be included in the Tentative Order.</p> <p>Generally, growers also do not have the capacity (time, finances, and expertise) to oversee administrative, technical, and reporting efforts, therefore, significant guidance and oversight by the Los Angeles Water Board would be needed to ensure compliance. Additionally, based on the mechanism by which individual monitoring is triggered and compliance is satisfied, it is possible that growers could face confusing and overlapping loops. Meaning, one-off exceedances at different times and weather conditions may trigger additional individual</p> | <p>agricultural supply. The Tentative Order pairs an individual monitoring approach with management practice implementation because both compliance tracks will provide the information and feedback to the regulated community to achieve meaningful water quality gains.</p> <p>The Los Angeles Water Board acknowledges that the 2014 SBX 2 1 Expert Panel (2014 Expert Panel) identified a number of problems associated with monitoring the water quality of surface discharges from individual farms, including expense, difficulty of timing sampling, and scale. (Section 4.9 of the 2014 Expert Panel Report, p. 40-41.) The 2014 Expert Panel instead recommended water quality monitoring of receiving water to gain a clear understanding of watershed hydrology and to determine if problems “do indeed exist”. (Expert Panel, p. 41) Likewise, the State Water Board expressed a preference for receiving water monitoring in WQ 2018-002 (ESJ</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <p>monitoring compliance schedules resulting in overlapping monitoring and reporting efforts. Updating Monitoring and Reporting Plans and tracking monitoring requirements can be burdensome and confusing. Loops can also overlap, resulting in variable implementation timelines for different TMDL exceedances which creates further administrative burdens on growers. As presented by multiple growers at the April 27, 2023 Workshop, the typical Ventura County farm operation have an administrative staff of one, the grower themselves. Depending upon the number of growers selecting Track 1, there is potential that contracted laboratories will not have the capacity nor the available timeline to properly receive, analyze, and report water quality in a timely manner. Lastly, individual monitoring, especially given the doubling of the monitoring requirement in the Tentative Order as compared to the 2016/2021 Waivers, means that more financial resources are being contributed to solely monitoring, an approach which does not result in water quality improvements</p> <p><i>Requested Action:</i></p> <ul style="list-style-type: none">• <i>Remove the individual monitoring approach as a response to TMDL Benchmark exceedances and prioritize adopting and implementing Track 2.</i> <p><i>OR</i></p> <p><i>Make the requested changes shown in Exhibit 2, Appendix 3, including, but not limited to:</i></p> | <p>Order) for the purpose of “identifying water quality issues” (ESJ Order, p. 55). However, the State Water Board specifically declined to issue precedential requirements for surface water monitoring, noting that “there is significant regional and watershed-based variation in the conditions, pollutants, and practices for which each surface water quality monitoring program must be designed. (ESJ Order, p. 58.) All the available data, which are exhaustively outlined not only in the staff report for this Order but also in the records for every TMDL that has assigned a load allocation to irrigated agriculture, have determined that water quality problems associated with agriculture in the Los Angeles Region, “do indeed exist”. The Los Angeles Water Board adequately understands the hydrology and now needs monitoring information to better understand the source of the pollution from each farm because no single farm is the problem.</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <ul style="list-style-type: none">• <i>Allow dischargers adequate time to begin the implementation of their MRP after being approved by the Executive Officer.</i>• Return to one sample per year per weather condition to be collected annually.• <i>Establish clear guidance on discharge limitation compliance which incorporates Discharger Group monitoring location water quality data, no-discharge (including indirect discharge) conditions, and an allowance for instances where substantial evidence exists that agriculture discharges did not cause or contribute to the exceedance.</i>• Ensure that all required reports have a template provided. | <p>Consistent with the 2014 Expert Panel and the ESJ Order, the Tentative Order incorporates individual edge-of-field monitoring when TMDL-based deadlines have passed and TMDL load allocations are not attained.</p> <p>Individual edge-of-field monitoring is appropriate and consistent with Water Code section 13267. When implemented correctly, individual discharge monitoring can be used to provide real time feedback on management practice implementation and efficacy. The monitoring data obtained from dischargers that opt to implement individual discharge monitoring promotes quicker compliance when water quality exceedances persist past the compliance deadline by ensuring that dischargers understand their contributions to the pollutant load. The Staff Report estimate that the cost to prepare an individual MRP would be \$15,412 and that sampling would be between \$3,944-5,144 per year. While these</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>costs are not negligible they are not unreasonable in light of the significant benefits to be obtained in protecting human and health and the environment from the impacts of agricultural pollution.</p> <p>Moreover, throughout the development of the Tentative Order, feedback from the public has included a request for the ability of a grower to demonstrate a property does not discharge to surface water. Track 1 provides flexibility for growers to do just that.</p> <p>Given these considerations, the application of individual discharge monitoring in cases where the iterative management practice process has not succeeded in attaining TMDLs by their deadlines, is a reasonable and necessary approach.</p> <p>The Los Angeles Water Board also disagrees with the commenter's characterization of the individual</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>discharge monitoring track as follows:</p> <p>Regarding the comment statement:</p> <p><i>“the burden of such a program is not scaled based on the size of the grow operation, but is evenly applied across all growers, regardless of size”,</i> this is not reflective of the language included in Section 3.3.1 of Appendix 3.</p> <p>Section 3.3.1 states:</p> <p><i>“The number and location of individual discharge monitoring points to serve as compliance points. Individual discharge monitoring points must be selected to adequately characterize the majority of the discharge from the member site, based on its typical discharge patterns, including tail water discharges, discharges from tile drains, and stormwater runoff”.</i></p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>Regarding the comment statement “<i>The uneven distribution of costs could be alleviated via a cost sharing mechanism; however, the individual monitoring requirement has no such mechanism included as is currently written</i>”, the Tentative Order does not preclude individual dischargers from entering into a cost sharing mechanism nor does the Tentative Order preclude a discharger group from assisting a Member in fulfilling this obligation. Nevertheless, the Los Angeles Water Board does not agree that a cost sharing mechanism would be an appropriate inclusion in a regulatory order.</p> <p>Regarding the comment that “<i>exceedances triggering a requirement for more monitoring sends the message to VCAILG members that willingness to comply is likely to result in more enforcement and higher costs</i>” and the suggestion that individual monitoring requirements encourage noncompliance, enforcement of the irrigated lands program to date has</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>focused on non-enrollment. While enforcement priorities may shift in the future, enforcement is progressive. The continuation of individual monitoring requirements in the Tentative Order is not intended to promote or facilitate additional enforcement. Individual monitoring is intended to ensure that growers, the public, and the Board have a more complete understanding of the water quality impacts from individual farms. Dischargers in Ventura County that would prefer additional compliance assurance, are encouraged to select the Track 2 compliance option (individual MPP). Dischargers that select Track 1 can also request a TSO pursuant to Water Code section 13300 if monitoring data indicates that they are likely to violate any individual discharge limitation(s).</p> <p>To the extent that the commenter is concerned that the inclusion of individual discharge limitations will have the unintended consequence of encouraging growers to avoid</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>enrolling in the Tentative Order entirely, the Los Angeles Water Board is committed to ensuring enrollment. A management decision was made to transition from utilizing a Conditional Waiver regulatory mechanism to WDRs. This will lighten the resource burden of addressing the administrative tasks necessary to renew every 5 years. This will allow more resources to be directed at increasing compliance with the program, including enrollment.</p> <p>Regarding the recommendations of the 2014 Expert Panel and the State Board Order in response to the East San Joaquin Valley WDR petitions, they were considered when developing the past Conditional Waiver and Tentative Order. The conclusion of this consideration is that individual discharge monitoring is necessary in some instances as discussed above.</p> <p>Regarding Porter Cologne's "reasonableness standard" in Water.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | | <p>Code sections 13000, 13241, 13263, 13267(b)):</p> <p>The Los Angeles Water notes that Water Code section 13000 is merely prefatory language that imposes no substantive obligations on the regional water boards. Water Codes section 13263 requires the Water Boards to consider the factors in Water Code section 13241, including economic considerations, but this section also impose no reasonableness requirement. To the extent Water Code section 13267(b) requires the burden of reports required by the Tentative Order to bear a “reasonable relationship to the need for the report and the benefits obtained from the report”, the Los Angeles Water Board has satisfied this burden as discussed above.</p> <p>This comment is noted for the record, but no changes have been made.</p> |
| 2b.17 | VCAILG | Monitoring site and constituent language should allow flexibility for streamlining, coordination with other monitoring | Additional language has been added to Appendix 2 Section 1.1.1. and |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <p>programs, or modifications due to changing field conditions. The Group Monitoring and Reporting Plan must be submitted and approved, therefore, any proposed modifications to the plan or strategy would require Los Angeles Water Board staff approval before going into effect.</p> <p>Appendix 3, Section 1.1.1 specifies that “Discharger Groups covered by Order No. R4-2021-0045-A02 shall maintain any monitoring sites and analyses approved under that Order (15 sites for constituents specified in Table 1 and for 8 sites for constituents specified in both Table 1 and Table 2).” Under Order No. R4-2021-0045-A02, three of the eight monitoring sites subject to TMDLs presently monitor for constituents specific to the applicable TMDL and do not monitor for all constituents found in Table 1 of Appendix 3 of the Tentative Order. These three monitoring locations (S01D_MONAR, CIHD_VICT, and V02D_SPM) were selected to specifically assess water quality conditions for TMDL constituents and were not intended to be used for assessment of all constituents under the Tentative Order.</p> <p>S01D_MONAR was originally selected as the closest monitoring location to the Santa Clara River Estuary and was designated to assess load allocations to the estuary. It is only 1 mile away from OXD_CENTR, which is a monitoring location that was selected to be representative for monitoring of all constituents under the Tentative Order. The purpose and justification for monitoring all constituents</p> | <p>Appendix 3 Section 1.1.1., to state monitoring sites covered by Order No. R4-2021-0045-A02 shall be maintained.</p> <p>Based on this clarification the S01D_MONAR and V02_SPM sites do not need to be monitored for Table 1 Constituents.</p> <p>OXD_CENTR is only one mile from the S01D_MONAR site, however historical and present site conditions are vastly different. In light of the likelihood that part of the existing representative area (in particular the portion north of the Santa Clara River) will need to be transitioned into a new representative area, VCAILG members might benefit from setting a new monitoring location or utilizing S01D_MONAR for Table 1 and Table 2 constituents.</p> <p>CIHD_VICT was added to monitor for constituents in Harbor Beaches of Ventura County Bacteria TMDL, as identified in Table 2, to help determine agricultural dischargers</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>at S01D_MONAR is unclear when the OXD_CENTR monitoring location is sufficiently representative of agricultural crops and discharges in the area.</p> <p>Appendix 3, Section 1.1.1 specifies that, “an additional monitoring site for Table 1 constituents that captures agricultural discharges to Channel Islands Harbor” be added. It is unclear what the added benefit is of two monitoring locations testing for Table 1 constituents in discharges to the Channel Islands Harbor. VCAILG anticipates evaluating and proposing in the MRP a monitoring strategy that fulfills Channel Islands Harbor Bacteria TMDL monitoring as well as Table 1 constituents.</p> <p>V02D_SPM is a site added specifically to meet the Ventura River Algae TMDL requirement to incorporate a monitoring site in the lower Ventura River Watershed. This site is located at an individual farm. The other two Ventura River Watershed monitoring locations are located in tributaries that represent agricultural discharges for a broader area and are more appropriate for their use in assessing Appendix 4 benchmark compliance and informing Best Management Practice implementation through the Water Quality Management Plan.</p> <p><i>Requested Action: Remove the requirement for Table 1 and Table 2 constituents to be monitored at three of the eight monitoring sites. Remove the requirement for the CIH_VICT monitoring location and allow for the added</i></p> | <p>contribution to the impairment. However, additional data is necessary to determine the magnitude of agricultural discharges to Channel Islands Harbor. The Tentative Order requires an additional site to be added to capture agricultural discharges to Channel Islands Harbor and to be monitored for Table 1 constituents only. VCAILG may propose for review and consideration a monitoring site that can accommodate both functions.</p> <p>It is also recommended that an additional location in the lower Ventura River Watershed be added if V02_SPM is not appropriately representative.</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|--|
| | | <i>Channel Islands Harbor monitoring location to monitor for Table 1 and Table 2 constituents. See Exhibit 2 Appendix 3, Section 1.1.1 document for suggested changes.</i> | |
| 2b.18 | VCAILG | <p>Monitoring Year definition should remain consistent with existing monitoring programs.</p> <p>For consistency with the 2016/2021 Waiver monitoring and reporting schedule, as well as that of the Calleguas Creek Watershed TMDLs Monitoring Program, which coordinates multiple Stakeholders, the monitoring year should remain defined as July 1 through June 30 with annual reporting for results of each year taking place on December 15th, annually. This is the ongoing schedule in the approved Quality Assurance Project Plans (QAPPs) for both VCAILG and the Calleguas Creek Watershed TMDLs Monitoring Program.</p> <p><i>Requested Action: Incorporate changes shown in Exhibit 2 for Appendix 3, Section 1.1.2 and Appendix 5 for the CCW Salts and Metals and Selenium TMDLs, where noted.</i></p> | <p>Appendix 3 does not define the monitoring year but does include frequency language. The text state “the frequency of monitoring for Table 1 constituents (with the exception of toxicity) shall be four times per storm year”. This is the same language as was included in the 2016/2021 Waiver.</p> <p>No revision is necessary as the monitoring and reporting schedule is addressed through the QAPP and the MRP.</p> |
| 2b.19 | VCAILG | <p>Guidance for improved source control practices is a valuable component of the WQMP and needs to be included as part of the plan.</p> <p>While VCAILG understands the need to prioritize structural or treatment BMPs, the value of source control and regular contact with professionals that provide advisory services is an important tool in protecting and improving water quality,</p> | <p>Nothing in the Tentative Order precludes VCAILG from including improved source control practices in the WQMP and TSPs from recommending them.</p> <p>The Staff Report discussion of implementation levels is based on</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <p>particularly for less experienced growers. Furthermore, source reduction and non-structural management practices have not been fully or nearly fully implemented across the County. There are high levels of implementation of many of these types of practices according to the VCAILG 2020 WQMP, however this data does not include unenrolled parcels or the 21% of VCAILG enrolled irrigated acreage that did not complete a BMP survey that year. Additionally, there is opportunity for revised or improved source control practices under the guidance of expert professionals.</p> <p><i>Requested Action: Add an additional bullet point under the types of management practices that must be specified for each constituent grouping in Appendix 3 Section 2.2.a as follows and make additional changes pertaining to Appendix 3 Section 3.4.2 noted in the new bullet point and shown in Exhibit 2.</i></p> <ul style="list-style-type: none">• <i>“Improved source control practice implemented under the guidance of RCD, NRCS, or an equivalent professional expert as defined in section 3.4.2”</i> <p><i>More accurately capture the state of BMP implementation as follows and shown in Exhibit 2 for Appendix 3:</i></p> <p><i><u>Because The most recent BMP Surveys reported in the VCAILG 2020 WQMP demonstrate high levels of source reduction and non-structural management practices have already been fully or nearly fully implemented by all</u></i></p> | <p>data provided by VCAILG. The circulation and analysis of management practice surveys by members is a Discharger Group responsibility. A submittal rate of only 79% is not an indication of robust member participation and VCAILG should actively work to increase member responses. These members are not in good standing and are at risk of enforcement.</p> <p>No revision is necessary.</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | <i>surveyed members in the land area draining to the monitoring site, the WQMP must specify prioritize implementation of structural/treatment management practices.</i> | |
| 2b.20 | VCAILG | <p>The addition of riparian buffers as a management practice that is to be specified in the WQMP for various categories of water quality benchmark exceedances needs to be removed or qualified with “where appropriate”.</p> <p>Mandating the specific practice of riparian buffers exceeds the Los Angeles Water Board’s legal authority (See Exhibit 3, Section I.C)</p> <p><i>Requested Action: Remove the listing of riparian buffers as a practice in Appendix 3, Section 2.2 (preferred) or add the qualifier of “where appropriate” following the listings of Riparian buffers as a practice in Appendix 3, Section 2.2. Refer to Exhibit 2, Appendix 3, Section 2.2 for recommended changes.</i></p> | <p>The Tentative Order does not mandate the use of riparian buffers because section 2.2. of Appendix 3 requires the WQMP to specify the types of management practices that will be implemented to address exceedances. However, for clarity the text in all appendices has been amended to “Vegetated practices, such as riparian buffers and vegetated channels”.</p> |
| 2b.21 | VCAILG | <p>Members who have difficulty quantifying yield should be permitted to report “A” values only</p> <p>Due to the majority of Ventura County being covered by nitrogen-related TMDLs and the lack of definition of “minimal nitrogen inputs” no grower will be able to demonstrate all three criteria. This effectively makes the third criteria (difficulty measuring yield) useless as a provision to account for crop and operation-specific challenges. For many growers, there is simply no way to</p> | <p>The Total Nitrogen Applied value reporting requirement category is precedential. See comment 1.3.</p> <p>However, in recognition of the fact that there are some circumstances in which the burden of reporting R may not be justified or may pose unique challenges because of difficulties in measuring yield, the</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | <p>measure yield, effectively imposing an impossible requirement on certain growers. Examples of this situation includes nurseries, where the plant and potted soil are removed from the operation, and community self-harvest operations that are continuously harvested and harvest amounts oftentimes self-reported (or unreported) by members of the public.</p> <p><i>Requested Action: Revise Appendix 3, Section 1.4.2.2 as shown in Exhibit 2 to state the following: “Growers that (1) operate in areas with evidence of no or very limited nitrogen impacts to surface water or groundwater, (2) have minimal nitrogen inputs, or (3) have difficulty measuring yield”</i></p> | <p>ESJ Order allows, at regional board discretion, specific alternative requirements.</p> <p>The specific alternative reporting allowed includes “and” but not “or”. Therefore, no change has been made.</p> |
| 2b.22 | VCAILG | <p>Members that meet the criteria in Appendix 3, Section 1.4.2.2 to report Total Nitrogen Applies value only should attest that they meet the defined criteria.</p> <p>Appendix 3, Section 1.4.2.2 specifies that with approval from the Executive Officer, Members who meet any of a set of defined criteria may submit the A value only. It should be the responsibility of the Member to sign a perjury statement attesting that they meet one of the specific criteria for submitting A values only. It would be a significant burden on the Discharger Group to complete such an assessment and the Group is not in a position to evaluate diversified socially disadvantaged status.</p> <p><i>Requested Action: Revise Appendix 3, Section 1.4.2.2 to state that Members seeking to submit the A value only,</i></p> | <p>The Los Angeles Water Board agrees that the data to determine who meets the A value-only reporting will be supplied by the growers themselves and recommends that VCAILG assist members with understanding the requirements. However, INMRs are submitted to the Los Angeles Water Board by a field level anonymous member ID. So, in order to protect grower anonymity in the INMRs and to ensure quality reporting, the Discharger Group shall assess and demonstrate that the criteria are met.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|--|
| | | <i>provides a perjury statement specifying how they qualify for approval by the Executive Officer. The information could still be submitted via the Discharger Group's WQMP, but the Group would simply compile and submit the attestations provided by the Members. See Exhibit 2, Appendix 3, Section 1.4.2.2 for suggested changes.</i> | The Los Angeles Water Board understands the assessment may be a burden on VCAILG. VCAILG is responsible to creating an Irrigation and Nutrient Management Report template that is approved by the Los Angeles Water Board. In that template they can include an area for the Member to provide a perjury statement specifying how they qualify for approval. VCAILG can submit these statements in the WQMP. |
| 2b.23 | VCAILG | <p>Additional exemption requests from Nitrogen Management Reporting Requirements should be the responsibility of the individual discharger and not the Discharger Group</p> <p>Appendix 3, Section 1.4.2 details the Irrigation and Nutrient Management Report requirements and includes circumstances under which Members may submit only nitrogen applied values. Should any Members have additional unique circumstances where they can demonstrate no nitrogen discharge to surface or groundwater, then it should be their responsibility to provide that assessment and evidence, not the Discharger Group.</p> <p><i>Requested Action: Revise Appendix 3, Section 1.4.3 to change the responsibility for demonstrating ability to meet</i></p> | See response to LAILG comment 1.20 |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|--|---|
| | | <i>the nitrogen management requirements exemption criteria from the Discharger Group to the Discharger/Grower requesting the exemption. See Exhibit 2, Appendix 3, Section 1.4.3 for suggested changes.</i> | |
| 2c | VCAILG | Exhibit 2 – Redline Recommendations | Redline Recommendations are mostly addressed through the responses to Comments 2a.-2b.23 and 2d.1-2d.51. For those redline recommendations with specific comments included in the redlined documents, the comments are addressed here, 2c.1-2c.21 |
| 2c.1 | VCAILG | <p>Order</p> <p>The SIP <u>does not apply to regulation of nonpoint source discharges. Rather, the SIP recognizes</u> that implementation of the CTR for nonpoint source discharges shall be consistent with the Nonpoint Source Policy.</p> <p>Associated comment: See footnote 1 of the SIP, which specifically states that it does not apply to Nonpoint Source Discharges.</p> | <p>The Order tracks the language in section 5.1 of the SIP, which notwithstanding the language in Footnote 1, specifically states “It is the intent of the SWRCB, in adopting this Policy, that the implementation of the priority pollutant criteria/objectives and other requirements of this Policy for nonpoint source discharges shall be consistent with the State's ‘Policy for the Implementation and Enforcement of the Nonpoint Source Pollution Control Program, 2004.’”</p> <p>No change is made in response to this comment.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|---|---|
| 2c.2 | VCAILG | <p>Order</p> <p><i>*Additional time may be added to this TMDL deadline should a TMDL reconsideration revise the implementation schedule based on the results of special studies.</i></p> <p>Associated comment: Footnote added to match table in Appendix 3.</p> | See comment 2.b.4 |
| 2c.3 | VCAILG | <p>Order</p> <p>December 15, <u>2025</u>, and every three years thereafter</p> <p>Associated comment: Modified date to be one year after submittal of the Trend Plan and 3 years after the submittal of the 2022 Trend Report.</p> | Recommended change made, conforming change made to Appendix 3. |
| 2c.4 | VCAILG | <p>Appendix 3</p> <p><u>Until Executive Officer approval of the MRP, Discharger Groups shall continue to implement the existing MRP approved for Order 2016-0143 and subsequent extensions.</u></p> <p><u>Associated comment: Added to provide clarity on monitoring to be conducted until the new MRP is approved.</u></p> | Recommended change made. Conforming change made to Appendix 2. |
| 2c.5 | VCAILG | <p>Appendix 3</p> <p>Discharger Groups shall establish monitoring locations in <u>surface</u> waters that receive direct or indirect discharges from irrigated agricultural operations <u>owned and/or operated by the members of the Discharger group</u>.</p> | This language is applicable for new Discharger Groups. The language specifies that monitoring sites are <i>established</i> at locations owned/or operated by the members of the Discharger group. It does not |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|---|--|
| | | <p>Associated comment: Monitoring locations are established to represent agricultural discharges and are not all located in receiving waters.</p> <p>The Discharger Group does not control membership and it is not feasible to change monitoring locations according to shifts in Group enrollment once established in the MRP and approved.</p> | <p>require changing locations based on ownership. It specifically states "Discharger Groups covered by Order No. R4-2021-0045-A02 shall maintain any monitoring sites and analyses approved under that Order".</p> <p>Section 13050 of the Water Code defines "waters of the State" as any surface water or groundwater, including saline waters, within the boundaries of the state. This definition is very broad and can include agricultural drains, irrigation ditches or canals, and agricultural ponds.</p> <p>No change is made in response to this comment.</p> |
| 2c.6 | VCAILG | <p>Appendix 3</p> <p><i>E. coli</i></p> <p>Associated comment: <i>E. coli</i> is not a constituent listed in this TMDL.</p> | Recommended change made. |
| 2c.7 | VCAILG | Appendix 3 | QAPPs can change and therefore are not appropriate reference |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------|---|--|
| | | <p>For polychlorinated biphenyls (PCBs) in aqueous samples, Individual dischargers are encouraged to conduct their analysis using a high-resolution EPA-approved method with recommended Reporting Levels of at least 170 pg/L for each congener. At a minimum, PCBs shall be analyzed for all 55 PCB congeners listed in Table A-7 of the Water Quality Control Plan for Enclosed Bays and Estuaries, Sediment Quality Provisions the arochlors or congeners identified in the Calleguas Creek TMDL QAPP.</p> <p><u>Associated comment:</u> The CCW TMDL QAPP specifies the arochlors or congeners to be collected at each site. The list varies by site depending on the targets that are being evaluated. The 55 congeners are collected in sediment in Mugu Lagoon for comparison to the Sediment Quality Provisions, but are not collected at freshwater sites because these provisions do not apply to inland waters. At those sites the list is aligned with the arochlors listed in the California Toxics Rule.</p> | <p>material for an order. Clarifying language has been added as follows:</p> <p><u>“PCBs shall be analyzed for all 55 PCB congeners listed in Table A-7 of the Water Quality Control Plan for Enclosed Bays and Estuaries, Sediment Quality Provisions or the arochlors listed in the California Toxics Rule (as appropriate)”</u></p> |
| 2c.8 | VCAILG | <p>Appendix 3 High priority areas will be re-evaluated every 3 years based on the results of the Groundwater Quality Monitoring Trend Report.</p> <p>Associated comment: Requiring high priority areas to be re-evaluated every three years conflicts with the need to review targets every five years. If the intent is to determine which areas high priority areas, that should be done in conjunction with the GWP Targets review process.</p> | <p>Determination of high priority areas is separate from review of targets. No change is made in response to this comment.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|--|
| 2c.9 | VCAILG | <p>Appendix 3 INMPs must be certified¹² unless the Member's total farming operation consists of less than 10 <u>20</u> acres</p> <p>Associated comment: Edit for consistency with the proposed Track 2 prioritization criteria.</p> | <p>Proposed Track 2 Prioritization was not accepted.</p> <p>No change is made in response to this comment.</p> |
| 2c.10 | VCAILG | <p>Appendix 3 A grower-specific field-level report, submitted with Anonymous Member IDs, of existing management practices¹⁹ being implemented in the responsibility area <u>draining to the monitoring site</u>.</p> <p>Associated comment: Reporting by monitoring site drainage area will remove anonymity in some cases. Reporting by RA will still provide insight on the practices in specific areas relative to the water quality, while still providing some level of anonymity.</p> | <p>Recommended change made.</p> |
| 2c.11 | VCAILG | <p>Appendix 3</p> <p><u>Members are considered in compliance with the discharge limitations upon submitting the written notice to the Los Angeles Water Board identifying their intent to comply through either Track 1 or Track 2</u></p> <p>Associated comment:</p> | <p>Recommended change made.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | Included to clarify that the growers are in compliance with discharge limitations while developing the MPP and individual monitoring plan | |
| 2c.12 | VCAILG | <p>Appendix 3</p> <p>Dischargers shall begin implementation of their individual MRP within 10 60 days of approval by the Executive Officer.</p> <p>Associated comment: Upon MRP approval, Dischargers will need to request supplies from laboratories, obtain paperwork for sample collection, chain-of-custody, etc. This is unlikely to all come together within 10 days, therefore we defer to the recommended timeframe provided on the admin draft WDR of 60 days.</p> | <p>The requirement is to begin implementation within 10 days. This could be met by ordering the bottles and paperwork.</p> <p>No change is made in response to this comment.</p> |
| 2c.13 | VCAILG | <p>Appendix 3</p> <p>Associated comment: during a wet weather event, two one sample shall be collected per year in wet weather</p> <p>This change was first made in the 2023 administrative draft of this Order. No justification in the Order, this Appendix, or the Staff Report is given for the increase in monitoring. Therefore we are suggesting returning it to its original frequency.</p> | <p>Sampling frequency was revised in keeping with other regional monitoring and reporting programs and to provide more robust data set for evaluation purposes.</p> <p>No change is made in response to this comment.</p> |
| 2c.14 | VCAILG | Appendix 3 | See comment 2b.18. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | <p><u>The report shall cover samples collected during the previous June 30 – July 1 monitoring period, with the initial AMR being due after the first monitoring period during which the individual MRP was being implemented.</u></p> <p><u>Associated comment:</u> Provided clarity regarding the monitoring year in relation to the annual report. Made this consistent with the Discharger Group monitoring year.</p> | No change is made in response to this comment. |
| 2c.15 | VCAILG | <p>Appendix 3 <u>An individual AMR template is available on the Los Angeles Regional Water Board website.</u></p> <p><u>Associated comment:</u> Included this to help provide further guidance to individual growers complying with additional requirements on their own. May also provide some consistency in the reports the Regional Board receives for faster review.</p> | <p>This recommended language is already present in Appendix 3, Section 3.3.1.</p> <p>No change is made in response to this comment.</p> |
| 2c.16 | VCAILG | <p>Appendix 3</p> <p>For metals and current-use pesticides</p> <p><u>Associated comment:</u> Chlorpyrifos has been banned.</p> | Recommended change made. |
| 2c.17 | VCAILG | <p>Appendix 3</p> <p>Comparison of data with applicable water quality benchmarks <u>and/or discharge limitations.</u></p> | Recommended change made. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | <p>Associated comment: Discharge limitations do not apply to the Discharger Group monitoring locations.</p> | |
| 2c.18 | VCAILG | <p>Appendix 3</p> <p>10) Data analysis including assessment of compliance and/or noncompliance with water quality benchmarks <u>and/or discharge limitations.</u></p> <p>Associated comment: Discharge limitations do not apply to the Discharger Group monitoring locations.</p> | Recommended change made. |
| 2c.19 | VCAILG | <p>Appendix 3</p> <p><u>Fields level reports Farm Evaluation Survey</u></p> <p>Associated comment: Field-level reports are submitted directly to the Regional Board. VCAILG should not have the administrative burden of compiling and reporting on documents of which they are not the original intended recipient.</p> | Recommended change made. |
| 2c.20 | VCAILG | <p>Appendix 3</p> <p><u>INMP or Certified INMP</u></p> <p>Associated Comment: INMP is an on-farm document only. INMR information is submitted to the Discharger Group. Therefore, it can be</p> | As part of the INMR submittal, grower can confirm if the INMP has been completed. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | assumed if an INMR is provided, a corresponding INMP was completed. | No change is made in response to this comment. |
| 2c.21 | VCAILG | <p>Appendix 3</p> <p><u>except for reports, or portions of such reports, subject to an exemption from public disclosure in accordance with California law and regulations, include the Public Records Act, Water Code section 13267(b)(2), and the California Food and Agriculture Code. If the Discharger Group or Member of the Discharger Group asserts that all or a portion of a report is subject to an exemption from public disclosure, it must clearly indicate on the cover of the report that it asserts that all or a portion of the report is exempt from public disclosure. The complete report must be submitted with those portions that are asserted to be exempt in redacted form, along with separately-bound unredacted pages (to be maintained separately by staff). The Discharger Group/Member shall identify the basis for the exemption. If the Executive Officer cannot identify a reasonable basis for treating the information as exempt from disclosure, the Executive Officer will notify the Member/Discharger Group that the information will be placed in the public file unless the Los Angeles Water Board receives, within 10 calendar days, a satisfactory explanation supporting the claimed exemption. Data on waste discharges, water quality, meteorology, geology, and hydrogeology shall not be considered confidential. NOIs shall generally not be considered exempt from</u></p> | <p>The Los Angeles Water Board understands that Members/Dischargers have concerns regarding the privacy of information submitted under the MRP. However, these reports contain only generalized information and that would be unlikely to be considered a trade secret or otherwise privileged under the Public Records Act. (<i>Uribe v. Howie</i> (1971) 19 Cal.App.3d 194, 200 (court of appeal decision holding that pesticide spray reports were not trade secrets; <i>Rava Ranches v. California Water Quality Board, Central Coast Region</i> (2016); (Mont. Sup. Ct Nos. 16CV000255 and 16CV000257 (trial court decision holding that nitrogen application data was not a trade secret.))</p> <p>Nevertheless, to the extent, the Discharger Groups and Members may assert that certain</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | <p><u>disclosure.</u></p> <p>Associated comment:</p> <p>No associated comment included</p> | <p>information is privileged under the Public Records Act or other law, the Los Angeles Water Board agrees that establishing a process to identify potentially confidential information is appropriate. A claim of confidentiality, however, it not a guarantee of confidentiality. The Los Angeles Water Board may require any entity or person asserting that a report, or portion of a report, is exempt from inspection or disclosure to justify this claim. Further, any knowingly false claims of confidentiality may subject a person to criminal prosecution under the Water Code.</p> <p>Change made to Appendix 1, 2 and 3, with editorial differences (in bold below).</p> <p><i>except for reports, or portions of such reports, subject to an exemption from public disclosure in accordance with California law</i></p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p><i>and regulations, including the Public Records Act, Water Code section 13267(b)(2), and the California Food and Agriculture Code. If the Discharger Group or Member of the Discharger Group asserts that all or a portion of a report is subject to an exemption from public disclosure, it must clearly indicate on the cover of the report that it asserts that all or a portion of the report is exempt from public disclosure, a general description of the redacted information and the basis for that redaction. Any Discharger Group or Member that submits redacted information must also submit a complete and unredacted version of the report that is clearly labeled “CONFIDENTIAL”. All reports labeled “CONFIDENTIAL” will be maintained by the Los Angeles Water Board in a separate, confidential file unless the Los Angeles Water Board determines that the</i></p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p><i>information is not confidential. Data on waste discharges, water quality, meteorology, geology, hydrogeology, and field-level nitrogen application shall not be considered confidential. NOIs shall generally not be considered exempt from disclosure. If, at any time, the Los Angeles Water Board cannot identify a reasonable basis for treating the information as exempt from disclosure, the Executive Officer will notify the Member or Discharger Group that the information will be placed in the public file unless the Los Angeles Water Board receives, within 10 calendar days, a satisfactory explanation supporting the claimed exemption. Knowingly making any false statements on a monitoring or technical report submitted to the Los Angeles Water Board may result in the imposition of criminal penalties as provided for in Water Code section</i></p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | 13268(a)(2). |
|-------|--------|---|--|
| 2.d.1 | VCAILG | <p>The Tentative Order Improperly Imposes Discharge Limits at the Edge of Field</p> <p>Accordingly, discharge limitations are akin to “end-of-pipe” limits applied at the edge-of-operation, and individual discharge monitoring is required to determine compliance with such limits – unless a grower notifies the Los Angeles Water Board of their intent to employ Track 2. The inclusion of discharge limitations and individual monitoring imposes (improperly) a traditional, point source regulatory program onto nonpoint source discharges.</p> <p>The State Water Board’s <i>Policy for Implementation and Enforcement of the Nonpoint Source Pollution Control Program</i> (Nonpoint Source Policy) recognizes the unique nature of nonpoint source pollution and states that successful control of nonpoint source pollution is achieved through the implementation of management practices – not discharge limitations. (Nonpoint Source Policy, p. 4, [“... the most successful control of nonpoint sources is achieved by prevention or by minimizing the generation of NPS discharges. Most NPS management programs typically depend, at least in part, upon discharger implementation of management practices (MPs) to control nonpoint sources of pollution.” The Tentative Order runs counter to the approach endorsed in the Nonpoint Source Policy by imposing discharge limitations on growers, which essentially apply at the edge of the field. Ventura County</p> | <p>The inclusion of discharge limitations and monitoring is consistent with the NPS Policy.</p> <p>While the NPS policy acknowledges that management practices will be the core of any NPS regulatory program, nothing in the NPS Policy prohibits regional water boards from including discharge limitations in their NPS regulatory program. The NPS policy includes language encouraging regional boards to “be as creative and efficient as possible in devising approaches to prevent or control NPS pollution” (NPS Policy, p. 9) As such, under the NPS Policy, regional waters boards were granted “broad flexibility and discretion in using their administrative tools to fashion NPS management programs” (<i>Id.</i> p. 11.)</p> <p>The Tentative Order has been developed based on the Los Angeles Water Board’s years of implementing the irrigated lands regulatory program under the prior</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>Growers may elect to demonstrate compliance with the discharge limitations through MPs (i.e., Track 2 alternative compliance pathway); however, having the alternative pathway for demonstrating compliance does not remove applicability of discharge limitations onto themselves.</p> <p>While VCAILG appreciates the inclusion of Track 2 (and supports maintaining a viable and reasonable Track 2 approach), VCAILG's original concept and proposal was for a farm-level Management Practice Plan to be required when there was an exceedance of a TMDL-based benchmark – not for it to be a compliance demonstration option. VCAILG's concept and approach is consistent with the Nonpoint Source Policy because it would have addressed nonpoint source pollution in a manner that would achieve and maintain compliance with water quality objectives as measured in the receiving waters – not at the edge-of-the field. (Nonpoint Source Pollution, pp. 11-12.) Further, it would avoid the need to impose individual monitoring as a requirement in the Tentative Order and would result in all growers implementing MPs rather than just those that select the Track 2 option. VCAILG's approach is far more in alignment with the Nonpoint Source Policy, which firmly touts nonpoint source program success as being largely dependent on the willingness of dischargers to implement MPs and other strategies that effectively prevent or control nonpoint source discharges. (Nonpoint Source Policy, p. 16.)</p> | <p>conditional waivers. Individual discharge limitations and associated monitoring are triggered in limited circumstances where management practice implementation alone has been ineffective to achieve water quality benchmarks despite many years of management practice implementation by the regulated community. As acknowledged in the 2018 ESJ Order, the 2014 Expert Panel recognized that increasingly focused monitoring may be needed to narrow down and identify the sources of the exceedances. (ESJ Order, p. 54.) Prior to the TMDL deadlines, the Tentative Order relies on representative monitoring sites and responsibility areas, in conjunction with source identification studies, to narrow down and identify the sources of the exceedances. However, if these tools fall short and the water quality benchmark is still unmet after the TMDL compliance deadline, the Los Angeles Water Board has determined that continued reliance on this approach is unlikely to achieve the desired</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|--|
| | | <p>Unfortunately, the Tentative Order diverges significantly from the State Water Board's vision contained in the Nonpoint Source Policy by imposing discharge limits and individual monitoring rather than uniformly triggering development of farm-level Management Practice Plans to ensure attainment of water quality benchmarks in receiving waters. The approach in the Tentative Order cannot be reconciled with the Nonpoint Source Policy. Accordingly, the Tentative Order must be revised to discharge limitations and instead include language recognizing that compliance with receiving water limitations is reached through development and implementation of farm-level Management Practice Plans.</p> | <p>water quality outcomes. Even after individual discharge limitations and/or monitoring is triggered, management practice implementation will continue to be the backbone of the program as envisioned by the NPS Policy and the 2018 ESJ Order. It is merely the compliance demonstration method that shifts to focus on individual accountability rather than group-based accountability. As discussed in response to comment 2.b.16, individual monitoring provides an appropriate and technically sound feedback mechanism for on farm practices.</p> <p>Nevertheless, the Tentative Order presents dischargers the option of Track 1 or Track 2 in acknowledgement of the fact there is no one-size-fits-all solution.</p> |
| 2.d.2 | VCAILG | The Tentative Order Cannot Dictate the Manner of Compliance | While Track 2 specifies that participating dischargers must |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>The provision in the Tentative Order that requires structural management practices (Appendix 3, p. 27) violates the general prohibition set forth under Water Code section 13360, which prohibits regional boards from dictating the manner of compliance in waste discharge requirements. Water Code section 13360(a) provides in pertinent part that:</p> <p><i>No waste discharge requirement or other order of a Regional Board or the state board or decree of a court issued under this division shall specify the design, location, type of construction, or particular manner in which compliance may be had with that requirement, order, or decree, and the person so ordered shall be permitted to comply with the order in any lawful manner.</i></p> <p>Section 13360 allows the Regional Board to identify the “disease and command that it be cured,” but prohibits the Regional Board from “dictating the cure.” (See <i>Tahoe Sierra Preservation Council v. State Water Resources Control Board</i> (1989) 210 Cal.App.3d 1421, 1438, “Section 13360 is a shield against unwarranted interference with the ingenuity of the party subject to a waste discharge requirement; it is not a sword precluding regulation of discharges of pollutants. It preserves the freedom of persons who are subject to a discharge standard to elect between available strategies to comply with that standard.”)</p> | <p>implement structural management practices, Water Code 13360 is not implicated because Track 2 is an alternative compliance path. In the Tentative Order, all dischargers to receiving waters with TMDL exceedances past the TMDL compliance deadline are subject to the same individual limitations. However, the permit includes two compliance tracks to provide flexibility in how the dischargers comply with these limitations.</p> <p>Dischargers that select Track 2 get compliance benefits in exchange for committing to certain management practices because they are deemed in compliance with applicable limits and are provided additional time to comply with applicable water quality benchmarks in exchange for committing to individualized management practice plans, as well specific types of management practices including structural management practices.</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>The Tentative Order violates Water Code section 13360(a) because it seeks to impose a “particular manner” by requiring “structural management practices.” The Tentative Order does not simply direct dischargers to improve water quality by implementing management practices to meet water quality objectives in accordance with a time schedule. Rather, the Tentative Order specifically states <i>how</i> a growers will comply and <i>what</i> a grower <i>must do on their field</i>. As such, the Tentative Order is in direct contrast with the situation presented in <i>Pacific Water Conditioning Assn., Inc. v. City Council</i> (1977) 73 Cal.App.3d 546, 554 in which no violation of Water Code section 13360 occurred because the order simply ordered the City to comply with portions of the order in accordance with a time schedule and did not state anything regarding the manner in which the City must comply. The Tentative Order needs to be revised to state that the farm-level MPPs “may” include structural management practices rather dictating that farm-level MPPs “shall” include structural management practices.</p> | <p>That dischargers may have to commit to significant undertakings, including structural management practices, to get the benefit of deemed compliance status does not run afoul of Water Code section 13360, because nothing in the permit requires the dischargers to choose this path.</p> <p>As such, the Tentative Order already allows “persons who are subject to a discharge standard to elect between available strategies to comply with that standard” consistent with <i>Tahoe-Sierra Preservation v. State Water Resources Control Board</i>. In fact, the State Water Board considered a similar issue in the 2013 petition on the Central Coast’s Water Board’s Conditional Waiver of WDRs Order No. R3-2012-0011. In Order WQ 2013-0101, the State Water Board concluded that regional water boards do not dictate the manner of compliance where agricultural dischargers are given “the alternative compliance option to demonstrate that the discharge is</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>treated or controlled to a level of not causing or contributing to violations of water quality standards” (WQ 2013-0101. p. 54-55.) That is exactly, what the Los Angeles Water Board has done here.</p> <p>The commenter has provided no justification as to why the Los Angeles Water Board is barred from structuring its regulatory program to encourage dischargers to commit to structural management practices. Regulatory incentives are routinely applied in the Los Angeles region and statewide. For example, the Los Angeles Water Board’s regional MS4 Permit allows municipalities to demonstrate compliance with certain effluent and receiving water limitations if they commit to developing and implementing watershed scale plans to address stormwater. (Order No. R4-2021-0105, Part IX) Likewise, the Industrial General Permit allows industrial dischargers to be deemed in compliance with certain discharge prohibitions, effluent limitations, and</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>receiving limits if they commit to implementing best management practices to capture and use, infiltrate, and or evapotranspiration industrial stormwater to the desired design specifications. (Order 2014-0057-DWQ as amended, § I.G.52.) Water Code section 13360 does not prevent the Los Angeles Water Board from employing such strategies in the context of WDRs.</p> <p>Moreover, the emphasis on structural management practices for Track 2 is the logical outgrowth of the iterative process underpinning the Irrigated Lands Regulatory Program to date. Under the prior Conditional Waivers, VCAILG, identified and evaluated the efficacy of appropriate management practices in achieving water quality benchmarks to date. Despite widespread adoption of many nonstructural management practices (e.g., irrigation management), exceedances persist.</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>Nevertheless, there has been reluctance on the part of the regulated community to adopt the necessary structural controls to achieve water quality outcomes.</p> <p>By including the alternative compliance path in Track 2, the Los Angeles Water Board is creating an incentive for the regulated community to develop plans to implement these types of projects.</p> <p>It would be illogical not to allow the Los Angeles Water Board to use this information to inform subsequent permit revisions.</p> <p>Dischargers that do not want to commit to structural management practices on their land, or as part of a regional project, can and should select the individual monitoring track (Track 1). Under that track, these dischargers can select any appropriate method of compliance, provided their discharge is meeting applicable discharge limitations at the edge-of-field.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | | <p>Furthermore, even if 13360 did apply, the Los Angeles Water Board has not specified which structural management practices are required. Structural management practices include a wide variety of treatment options and dischargers have the flexibility to select structural management practices appropriate their situation.</p> <p>The Tentative Order has not been revised in response to this comment.</p> |
| 2.d.3 | VCAILG | <p>The Tentative Order Improperly Mandates the Use of Riparian Buffers</p> <p>The Tentative Order contains prescriptive requirements that mandate riparian buffers and prohibits all agricultural activities within these mandated buffers. One such example is in the Monitoring and Reporting Requirements for Proposed Additional or Upgraded Management Practices, in which WQMPs for nutrients, historic pesticides, and copper, and current pesticides require riparian buffers. (Tentative Order, pp. 19-20.) Such requirements exceed the Los Angeles Water Board's legal authority when issuing waste discharge requirements under Porter-Cologne. A</p> | <p>See comment response 2.b.20.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | <p>fundamental limitation to the Water Board's authority is that an activity must result in a "discharge of waste" that impacts water quality in order for that activity to be subject to regulation. (Wat. Code, §§ 13260(a); 13263; 13267; 13269.) Riparian buffers are not discharges of waste. Further, riparian habitat and buffers are not WQOs. Accordingly, the Los Angeles Water Board cannot regulate riparian habitat under the guise of water quality protection. Moreover, regulating land use is not within the purview of the Water Board.</p> | |
| 2.d.4 | VCAILG | <p>The Cost Considerations in the Staff Report Are Not Economic Considerations and are Based on Faulty Information</p> <p>VCAILG appreciates that the Staff Report attempts to quantify cost impacts and societal benefits of the Tentative Order on irrigated agriculture in both Ventura and Los Angeles Counties. Unfortunately, however, Sections 10 and 11 combined are not consistent with the Water Code, which requires the Los Angeles Water Board evaluate economic considerations when adopting waste discharge requirements. (See Wat. Code, §§ 13263(a) and 13241(d).)</p> | <p>Sections 10 and 11 of the Staff Report are consistent with the Water Code. See detailed response below.</p> |
| 2.d.5 | VCAILG | <p>The title of Section 10 immediately identifies that the forthcoming analysis in that section is inconsistent with the Water Code. The Water Code specifically states that a factor that must be considered when adopting waste discharge requirements is "economic considerations." Since the statute does not define "economic considerations," the interpretation of the term should be</p> | <p>Notwithstanding the title of section 10 of the Staff Report, the Los Angeles Water Board provided more than simply a cost assessment by also providing an assessment of benefits to society from improved water quality, which encompasses</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>based on one or more of the following: a. The commonly understood meaning of economics and economic considerations as defined in the dictionary, and in textbooks by professional economists. The word "economic" is defined as "of, relating to, or based on the production, distribution, and consumption of goods and services."² It also means, "of or relating to economics."³ The word "economics" means "a social science concerned chiefly with description and analysis of the production, distribution, and consumption of goods and services."⁴ In comparison, the word "cost" means "the amount or equivalent paid or charged for something."⁵</p> <p>o The difference between cost considerations and economic considerations is significant and the two terms are not interchangeable. While costs are part of an economic analysis, they are a building block and not a substitute for a complete economic analysis. The cost alone does not determine the production, distribution, and consumption of goods and services, nor can it alone illuminate how proposed changes can affect the local economy and jobs. These require economic analysis that relates how additional costs or other restrictions affect businesses and individuals that produce, distribute, and consume goods and services in the economy.</p> | <p>multiple economic impacts resulting from the WDR and therefore complies with the requirement in Water Code section sections 13263 requiring regional boards to consider the factors in section 13241, including but not limited to "economic considerations," prior to adoption of WDRs. As conceded by the commenter, Water Code §§ 13263(a) and 13241(d) does not define "economic considerations". The California Supreme Court in <i>City of Burbank v. State Water Resources Control board</i>, specifically directed the Water Boards to consider the cost of compliance with a WDR, noting that "To comply with Water Code section 13241, subdivision (d), "a regional board [must] consider the cost of compliance when setting effluent limitations in a wastewater discharge permit." (2005) 35 Cal.4th 613, 625. However, the manner in which the Los Angeles Water Board complies with this mandate is at its discretion. <i>City of Duarte v. State Water Res. Control Bd.</i> (2021) 60 Cal. App. 5th</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>258, 273 citing <i>City of Arcadia v. State Water Resources Control Bd.</i> (2010) 191 Cal.App.4th 156, 177, [“Section 13241 does not specify how a water board must go about considering the specified factors. Nor does it require the board to make specific findings on the factors”] and City of Arcadia v. State Water Resources Control Bd. (2006) 135 Cal.App.4th 1392, 1415, [because the statute does not define economic considerations or specify how the agencies should comply with the determination of factors, “the matter is within a regional board’s discretion”].) As such, courts have acknowledged that the “economic considerations” which are considered in issuing a permit may vary and that there is no basis in statute or precedent to support the commenter’s contention that a section 13241 analysis must consider “how additional costs or other restrictions affect businesses and individuals that produce, distribute, and consume goods and services in the economy.” In City of</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p><u>Arcadia v. State Water Resources Control Bd. (2006) 135 Cal.App.4th 1392, 1417</u>, a court reviewing the section 13241 analysis supporting a TMDL adoption held that the Los Angeles Water Board need not consider “every conceivable compliance method or combinations thereof or the fiscal impacts to permittees).” Likewise, here, the Los Angeles Water Board need not consider every conceivable economic impact to society as a result of the Tentative Order.</p> <p>The field of economics is broad, and given how the Tentative Order is an environmental regulation, the Los Angeles Water Board conducted its analysis from an environmental economics standpoint. According to the textbook <u>Intermediate Environmental Economics</u> by Charles D. Kolstad, environmental economics is a subfield of economics that is "concerned with the impact of the economy on the environment, the significance of the environment to the economy, and</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>the appropriate way of regulating economic activity so that balance is achieved among environmental, economic, and other social goals." The Los Angeles Water Board provided analysis to the extent that available data allowed in order to show that the Tentative Order can help achieve a balance among environmental, economic, and other social goals.</p> <p>The Los Angeles Water Board has not provided an assessment on the WDR's impact on jobs or the production, distribution, and consumption of agricultural goods and services because there is limited data to conduct this analysis. Additionally, there is high uncertainty in this type of analysis. Growers on average will likely face increased regulatory costs, but it is difficult to predict the Tentative Order's effect on jobs in the agricultural sector or how the production, distribution, and consumption of agricultural goods and services may change. Empirical literature on the effects of</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>environmental regulations on employment in agriculture is limited, but studies of other regulated sectors have found mixed results, with labor demand either increasing, decreasing, or staying the same (Berman and Bui, 2001; Deschenes, 2018; Morgenstern et al., 2002). As labor demand is usually tied to levels of production, distribution, and consumption of goods and services, the literature also shows that environmental regulation can have mixed impacts on the overall financial health of regulated sectors. Furthermore, it is difficult to predict the Tentative Order's net effect of jobs on the regional economy. The adoption of the Tentative Order may lead to increased demand for workers who engage in water quality monitoring and planning and installing management practices. In addition, the potential public health and recreational benefits resulting from the adoption of the Tentative Order may also lead to new jobs in other sectors.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | | No change made to section 10 of the Staff Report. However, changes were made to section 14.1.4 to correct cross references. |
| 2.d.6 | VCAILG | <p>The legislature's expectation when it stated "factors shall include... economic considerations" may also be understood by analogy to the State's process for analyzing and disclosing economic impacts related to proposed regulations.</p> <ul style="list-style-type: none">o Economic analysis is required of most other agencies proposing regulatory actions under the California Administrative Procedures Act, (see for example Government Code sections 11346.2, 11346.3 and 11346.5). Section §11346.3 defines economic measures that must be considered, including "the creation or elimination of jobs within the state.," "new businesses or the elimination of existing businesses.," "competitive advantages or disadvantages for businesses.," etc. In short, the APA provides useful guidance in what the legislature deems appropriate economic considerations for informed decisions. | See response to comment 2.d.5 |
| 2.d.8 | VCAILG | <p>The purpose of evaluating economic considerations is to disclose both economic impacts and benefits and allow the Los Angeles Water Board to consider them, along with other information, to make a wise and balanced decision. The Staff Report essentially relies exclusively on cost information to support the waste discharge requirements. (See Staff Report, p. 105.) However, economic effects in addition to costs need to be disclosed for decision-makers</p> | See response to comment 2.d.5 |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|--|-------------------------------|
| | | <p>and the public.</p> <p>- For example, one could imagine a hypothetical proposal that would drive all production of an important crop out of state, eliminating many jobs. Only a reasonably careful economic analysis would disclose this possibility - a simple display of potential cost increases would not suffice.</p> | |
| 2.d.9 | VCAILG | <p>In the context of Water Code section 13263, economic considerations are tied directly to the adoption of waste discharge requirements. By extension, that means that economic considerations must include analysis and evaluation on how the waste discharge requirements will impact the production, distribution, and consumption of goods and services. VCAILG is simply asking the Los Angeles Water Board to analyze and disclose these economic considerations to potentially inform and improve its development of waste discharge requirements. Ultimately, the Staff Report contains cost considerations associated with implementation of the Tentative Order. However, the Staff Report does not explain the potential economic effects of the Tentative Order's requirements on the production, distribution, and consumption of agricultural commodities and businesses subject its provisions. To fix this error, the Staff Report needs to be revised to include a proper economic analysis of the economic considerations, including potential impact, that the Tentative Order may have on Ventura and Los Angeles County agriculture.</p> | See response to comment 2.d.5 |
| 2.d.10 | VCAILG | <p>Sections 10 and 11 of the Staff Report sections are marred by flawed assumptions and other significant methodological problems. The analyses are insufficient to support the</p> | See comment 2.d.5 |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|--|
| | | <p>broad claims made in the Staff Report. The combination of disparate data sets collected through varying methods and from different geographies results in unreliable estimates and conclusions. We recommend that the Los Angeles Water Board engage a transparent process for developing an appropriate methodology for conducting a more robust and comprehensive assessment that includes engaging stakeholders and correcting the Staff Report's shortcomings, as further detailed here. Once this approach has been implemented, then the Los Angeles Water Board can make well-informed policy choices regarding the Tentative Order's potential economic impacts on Ventura County and beyond.</p> <p>The short interval for review did not allow us to conduct a robust review of the staff report or provide significant insight into the economic conditions in Ventura County. However, in consultation with Matthew Feinup, Executive Director of the Center for Economic Research and Forecasting at California Lutheran University, the VCAILG Steering Committee, and growers in our network, we identified several deficiencies that are important for the Los Angeles Water Board to consider. This is not an exhaustive list and additional review by a qualified economist and robust stakeholder engagement would be necessary to further inform any future economic analysis.</p> | |
| 2.d.11 | VCAILG | The use of Gross Value of Agricultural Production data (see Table 24) is highly problematic. Gross Value includes the value of intermediate goods not produced in Ventura | Gross value and gross domestic product are both valid economic measures. Gross value is useful, as |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>County. Intermediate goods are materials used in production processes rather than sold to consumers. They're crucial for economic analysis due to their role in value chains and production efficiency. They must be excluded from economic analyses to prevent double counting. Consideration of intermediate goods, and their effect on the economy, offers insights into industry interdependence and resource allocation, aiding policymakers in sound decision making. Price changes in intermediates affect inflation and supply chain dynamics. Their analysis helps understand trade patterns and global production distribution. To site just one example, the gross value of strawberry production in Ventura County includes the value of transplants which are produced in Northern California and used as a costly input to production in Ventura County. The value of transplants can be six to seven thousand dollars per acre and should not be counted as the value of production in Ventura County. Ventura County's Agricultural GDP, as reported by the Bureau of Economic Analysis' County GDP data program, excludes the value of Intermediate Goods and is only \$1.56 billion for Ventura County in 2021. The misuse of gross value data appears to reveal a lack of understanding of economic data programs on the part of the authors. This oversight also indicates a failure to engage with stakeholders and with local authorities who would have quickly identified the oversight. This oversight indicates a lack of engagement with the Ag Commissioner's office, which generated the data for the table. The absence of engagement with local</p> | <p>farmers may turn to outside firms for more intermediate goods to meet stronger demand in times of growth, which would raise gross output faster than GDP. When facing difficult financial times, farmers may decide to purchase fewer intermediate goods and do more work in house, which would cause gross output to decrease and GDP to stay the same. The Los Angeles Water Board acknowledges that GDP is useful so that we know the amount of value added in Ventura County and has replaced gross value figures with GDP figures in the Staff Report.</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|--|---|
| | | authorities regarding this information raises questions about its reliability for use here. | |
| 2.d.12 | VCAILG | The analysis in Section 10.2 draws conclusions about economic growth using data from a single year (2020-2021). The choice of this year is problematic given that 2020-2021 includes the unprecedented economic disruption caused by the pandemic and the fundamental changes in consumer behavior that resulted. The authors of the analyses use data from this single year without acknowledging the nearly decade long, slow secular decline in Ventura County's agricultural production which preceded 2020. The authors did not conduct robustness checks to test the sensitivity of their analyses to the selection of a particular year's data. The authors need to provide a range of estimates based upon plausible future scenarios for agricultural output. | See response to comment 2.d.11. The Los Angeles Water Board acknowledged the declining trend in gross value in the previous draft of the Staff Report, and now does so with the declining trend in GDP in the revised Staff Report. |
| 2.d.13 | VCAILG | In section 10.1, the authors use USDA's AgCensus data, however, no methodology is described for how these data are used and their applicability to Ventura County. Furthermore, it appears that AgCensus data is combined with data from the Agricultural Commissioner crop report, which may result in significant methodological inconsistency. Attempting to draw relationships between data sets collected using different methodologies can lead to misleading interpretations and incorrect attributions. Furthermore, the authors compare AgCensus estimates of production expenses to Ventura County Ag Commissioner's estimates of sales in order to estimate profit margins. These are different data programs altogether. It is not clear | The Los Angeles Water Board conducted its analysis using the best available data. USDA's AgCensus had data on both sales and production costs, and the Ventura County Agricultural Commissioner only had data on sales. Clarifying language has been added to the Staff Report. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | that they cover the same definition of agricultural production. For example, is food processing included in both the AgCensus and Ag Commissioner's definitions? In order to reliably estimate profit margins it would be necessary to compare cost and sales data from a single data program, one that uses a single estimation methodology. The authors make no attempt to compare the methodology employed in each data program for the reader. | |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|--|--|
| 2.d.14 | VCAILG | <p>Of significant concern, is the discussion of agricultural operating profit margins in Section 10.1. This discussion improperly assumes that there is uniformity in operating profit margins based on aggregated data without acknowledging the varied financial situations of individual farms. The omission of a breakdown of profit margins for different agricultural activities and lack of direct stakeholder input limits the analysis's accuracy in depicting economic realities across diverse farms. Since Ventura County is a highly diversified county in terms of farm size and crop type, only robust stakeholder engagement could provide insights into operating profit margins. Unfortunately, the Staff Report's analysis does not appear to have involved direct input from a wide range of stakeholders. Incorporating diverse perspectives provides a more comprehensive understanding of the potential impacts and trade-offs. Also surprising, and inaccurate, is the assertion in Section 10.1 that growers have operating profit margins of 20%-42% . These numbers certainly don't reflect the lived experience of most farms in Ventura County. Contrary to the Staff Report, Ventura County farmers routinely characterize their financial position as "High Risk". The Staff Report analysis appears to overlook crucial considerations like interest expenses and taxes, thereby misrepresenting actual profitability. Based on communications with growers in VCAILG's network, we were advised that operating profit margins are typically planned at 10% for orchards and row crops. For some specialty crops, it was</p> | <p>The Staff Report states that the assessment of operating profit margins was done at the overall county level and "costs for some farms may be higher or lower than estimates presented in the analysis." However, as stated in the Staff Report, due to limited data an assessment on the distribution of profits at the individual farm level could not be provided. The Los Angeles Water Board does not have resources to conduct a comprehensive survey that would be representative of the population of growers in the Region. Furthermore, the analysis in the Staff Report uses operating profit margin as opposed to net profit margin in order to compare to USDA's measure of financial risk, which uses a scale of operating profit margins and not net profit margins.</p> |
|--------|--------|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | <p>reported that many have experienced years of 0% profit, holding on in the hopes that times will get better. Those in Ventura County will recall the devastating price crashes for lemons over the last two years, leaving orchards coated in dropped fruit. For two seasons, prices have been nearly below harvest costs. At 10% of the irrigated acreage in Ventura County, these impacts cannot be ignored.</p> | |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|--|--------------------------------|
| 2.d.15 | VCAILG | <p>o We urge you to connect with those who will be impacted by the Tentative Order requirements. In informal discussions, grower's shared valuable insights with us about the economic conditions in Ventura County. Examples of these insights include:</p> <ul style="list-style-type: none">■ "At 20 acres, we are just trying to cover the costs of farming."■ "We've had a net loss over the last 5 years."■ "We target between 5-10% [operating margin], but most years are closer to 5% or less."■ "[Significant structural BMPs] would need to be part of a capital improvement project and need funding."■ "I do not believe operating margins are a good test for the analysis of whether farms can support additional regulatory financial burdens. It takes much more to run a business successfully such as capital investment, administrative costs, and owner's management, which is typically unmonetized in agriculture. "■ "[Compliance costs of 7% gross margin] would make us reduce our planted acres by up to 50%, we'd likely go out of business at that point."■ "Those of us recovering from the Thomas Fire are really struggling. " | See response to comment 2.d.14 |
|--------|--------|--|--------------------------------|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|---|
| 2.d.16 | VCAILG | <ul style="list-style-type: none">• Further, the profit-margin analysis does not account for potential changes in market conditions, such as fluctuations in commodity prices or demand for agricultural products, which could impact the financial viability of agricultural operations. Additionally, the analysis assumes a linear relationship between production costs and agricultural output and does not consider anticipated and non-anticipated cost increases. For example, beginning January 2024, the minimum wage will increase to \$16/hr. Where labor can constitute up to 70% of operating expenses, costs will certainly rise. In a global market, these costs are often not passed on to the consumer. Farmers are price-takers, not price-makers. Inflation, gas prices, and increasing regulatory costs threaten what little operating margin remains. | See response to comment 2.d.13. Similar to the response to comment 2.d.5, the Los Angeles Water Board cannot predict how the agricultural industry in Ventura County will respond to changes in market conditions. Regarding the relationship between production costs and agricultural output, the Los Angeles Water Board did not assume a linear relationship and used the data available to calculate operating profit margins for 2012 and 2017. |
|--------|--------|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|----------------|
| 2d.17 | VCAILG | <p>o Growers shared these concerns with us:</p> <ul style="list-style-type: none">■ "I think [it] is very important to make [the point] that we farmers cannot raise our product price to account for increases in costs. We absorb everything-nutrient increases, labor cost increase, market instability, regulations. There is nothing we can do about it, except not get paid ourselves."■ "Our margins have decreased due to labor, rent, raw materials all going up dramatically in cost."■ "[We have] lowered expectations at this time due to market challenges primarily offshore competition from lower cost producers, additional regulations, water adjudication costs, and on-going inflation for the costs of production such as fuel, fertilizers, supplies and labor costs."■ "Inflation over the last 3 years in California has driven-up the costs of all inputs into the growing program. Vendors are telling us to expect more of the same due to the complex operating environment that California places on them." | Comment noted. |
|-------|--------|---|----------------|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|---|
| 2.d.18 | VCAILG | <p>The analysis does not consider potential future changes, such as climate change impacts, technological advancements, or shifts in consumer preferences. The analysis also assumes a relatively stable mix of crops over time, which might not hold true if farmers adjust their planting decisions in response to changing economy or lack of water availability. For example, Ventura County historically grew lima beans and apricots and is now dominated by avocados, lemons and strawberries. Many farmers in Ventura County will experience significant cutbacks in water allocations. In return, farmers will need to grow lower-value, less thirsty crops such as dry farmed beans. No discussion of these economic pressures is included in the staff report.</p> | <p>The Los Angeles Water Board acknowledges the pressures that growers face from climate change and has added language to the Staff Report regarding this. The Los Angeles Water Board also notes that the Tentative Order requires growers to implement practices that will curb runoff that would otherwise exacerbate climate change. Furthermore, the Los Angeles Water Board cannot predict technological advancements, shifts in consumer preferences, or how farmers may change their mix of crops in the future. It is possible that farmers may switch to lower-value crops, but they may also switch to higher-value crops. Therefore, the Staff Report examines the current top five crops in Ventura County in the cost analysis, especially since these crops will likely stay in the top five in the near future.</p> |
|--------|--------|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|--|--|
| 2.d.19 | VCAILG | <ul style="list-style-type: none">• Generally, sections 10.4 - 10.8 contain serious errors in the identification of costs, which then calls into question any conclusions drawn from this information. For example, Section 1.8, Estimated MP Implementation Costs, exhibits a lack of transparency that is characteristic of the authors analyses overall. Section 10.8 claims, "Annual operations and maintenance costs were accounted for in the current analysis and assume to be 2% of NRCS per-acre costs." There is no analysis presented to the reader to assess the validity or methodology of this claim. Further, nowhere in the document are the authors' formulae and data used to produce the estimates. | The Staff Report does not include specific cost formulas for the sake of brevity. However, the Staff Report provides all necessary data for readers to perform the calculations themselves should they choose to do so, including unit costs, discount rates, management practice lifespans, and O&M rate. The spreadsheet used to perform calculations will be added to the administrative record. As data on O&M costs for agricultural management practices are sparse, the Los Angeles Water Board used its discretion in setting the O&M rate. While imperfect, this was preferable to not accounting for O&M costs at all. |
| 2.d.20 | VCAILG | <ul style="list-style-type: none">• Section 10.8 switched to relying on NRCS estimates of operations and maintenance costs, whereas other sections of the document rely on AgCensus estimates of costs. The resulting range of MP unit costs is \$316 to \$2,700 per acre, a factor of nearly nine times. The authors provide no guidance regarding the circumstances under which the true costs would be \$316 per acre and the circumstances under which it would be \$2,700 per acre. This broad range does not allow the | The AgCensus does not have estimates of management practice costs, whereas NRCS does. Growers can choose which management practices make the most sense for them, and the Los Angeles Water Board cannot make precise predictions as to which management practices they will ultimately use. Therefore, the Staff |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|--|
| | | reader to understand the impact of these interventions on growers. | Report presents prices for the range of practices that growers might choose. |
| 2.d.21 | VCAILG | <ul style="list-style-type: none">• It appears that the data used from NRCS and incorporated into the analysis does not consider Ventura County specific information. The values cited in tables 29-30 do not match the Ventura County NRCS 2022 payment schedule. Further, the Staff Report does not explain if the values used are Environmental Quality Incentives Program (EQIP) payments to the farmer or the scenario unit costs used to calculate the EQIP payment. | The Los Angeles Water Board used data from the California Environmental Quality Incentives Program (EQIP) list for fiscal year 2023. The Los Angeles Water Board has added clarifying language to the Staff Report that values are from unit costs on the fiscal year 2023 list. |
| 2d.22 | VCAILG | <ul style="list-style-type: none">• In table 29, the irrigation management costs of \$382 per acre do not align with the local NRCS payments for 2022. For irrigation water management (IWM), the lowest EQIP advance payment stands at \$28.13 per acre. Notably, EQIP payments for IWM coupled with soil moisture sensors (FV22 EQIP payment ranging from \$835.25 to \$1680.50 per station) are not structured on a per- acre basis. However, it's important to recognize that each soil moisture sensor station installed by a farmer would positively impact the acreage receiving the IWM treatment, whether it's an irrigation block or field, contingent upon soil, crop, and landscape variations. Also, irrigation management encompasses more than just direct EQIP costs, often involving structural enhancements to optimize the efficiency of the entire water supply system, from source to crop delivery. The | See response to comment 2.d.21. The Los Angeles Water Board conducted its analysis using the best available data, which for management practice unit costs were values from the EQIP payment list. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---------------|
| | | potential actual cost to farmers could far exceed the permissible EQIP payment, potentially rendering this data an appreciable underestimation of the genuine economic ramifications of the Tentative Order. A similar situation is observable in the case of mulching costs presented in the staff report - these figures represent reimbursement rates rather than the actual expenses borne by the farmer. | |
| 2d.23 | VCAILG | <ul style="list-style-type: none">• In table 30, where "irrigation management" is left blank for orchards, accompanied by a note indicating its equivalence to erosion management. However, irrigation management practices in orchards are primarily designed to address concerns related to irrigation efficiency and water quality, particularly those associated with deep leaching and irrigation runoff. Orchards often require comprehensive conservation plans from the NRCS to enhance irrigation efficiency and curtail issues like deep leaching and runoff. These plans frequently involve a combination of irrigation management strategies and supportive structural measures aimed at optimizing overall irrigation system efficiency. This underscores the importance of tailoring management approaches to the unique challenges presented by different agricultural contexts. | Comment noted |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|---|
| 2.d.24 | VCAILG | <ul style="list-style-type: none">• Overall, the Staff Report needs to recognize that the application of NRCS data to specific regions or practices lacks accuracy, especially when considering localized variations and unique circumstances. This is particularly noticeable in cases where local data is unavailable, leading to a reliance on federal practices and costs that may not accurately reflect the unique nature of particular area like Ventura County. In such instances, federal practices and associated costs can inadvertently be presented as local data within the NRCS database, leading to discrepancies between the information presented and the actual on-the-ground reality. The authors do not appear to have considered this and may have further obscured accurate cost estimates in the analysis. Therefore, we are asking that NRCS data only be included in any future analysis if it has been confirmed and qualified by local NRCS office as well as verified by growers who have implemented these interventions. Federal NRCS costs and practices are not applicable to the local economic conditions. | The NRCS data comprise cost estimates for California and are the best publicly available data for the analysis. Staff also does not have resources to conduct a comprehensive survey that would be representative of the population of growers in the Region. |
| 2.d.25 | VCAILG | <ul style="list-style-type: none">• In Section 10.8.4, the analysis focuses on crop-level costs, particularly for the top five highest- grossing crops in Ventura County. However, several issues undermine the validity of these estimates. The range of estimated MP costs as percentages of crop values in Table 36 and Table 37 is wide, with values spanning from 0.2% to over 7%, revealing significant uncertainty and variability in the estimates. Additionally, while the report highlights the representation of orchard and non-orchard crops, it does | See response to comment 2.d.20. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|---|
| | | not delve into how these differing practices and costs impact the overall conclusions. | |
| 2.d.26 | VCAILG | <ul style="list-style-type: none">• The consideration of crop value in this context is inappropriate. An economic analysis should focus on the value added within Ventura County itself. The indicated crop values encompass various intermediate goods produced outside Ventura County, thus distorting the accuracy of the assessment. For instance, the reported \$622 million attributed to strawberries encompasses approximately \$6-7 thousand per acre from transplants, a value that is added in northern California. | The Los Angeles Water Board conducted its analysis using the best available data. Data is unavailable on the value added or value of intermediate goods for specific crops in Ventura County. |
| 2.d.27 | VCAILG | In conclusion, the deficiencies highlighted in Section 10 undermine the credibility and reliability of the conclusions put forth in the staff report. Specifically, the Staff Report erroneously concludes that the financial impact of the Tentative Order on Ventura County's agricultural industry will not be burdensome based on operating profit margins and county-level annual MP costs. However, this broad, general conclusion fails to consider the individual circumstances and financial vulnerabilities of specific farms. The assumption that larger farms would be less affected due to presumed higher incomes oversimplifies the complex financial dynamics within the agricultural sector. Lastly, the availability of federal funding sources | See response to comments 2.d.14, 2d.23 and 2d.24. See Section 12 of the Staff Report for information on funding assistance. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|---|
| | | <p>as a remedy assumes a uniform accessibility and effectiveness for all farms, disregarding potential barriers or limitations that individual farms may face in seeking financial assistance.</p> <p>Staff Report ignores inherent advantages and community support for maintaining agricultural land in Ventura County that may be threatened by overly burdensome requirements (which may or may not have an impact on water quality), encompassing both economic and non-economic dimensions. Section 11 fails to acknowledge the benefits associated with agriculture, the role it plays in the region's cultural identity, and the importance of Ventura County agricultural in national food security and nutrition through the production of fruits and vegetables. By not including these benefits alongside the outlined benefits in the Staff Report, the Staff Report creates an incomplete picture related to the impact of the Tentative Order and its potential impact on maintaining agricultural land in Ventura County.</p> | |
| 2.d.28 | VCAILG | <p>The authors do not identify, discuss, or consider the Save Open-space and Agricultural Resources (SOAR) in Ventura County. SOAR serves as a comprehensive growth management initiative safeguarding agricultural land and open spaces in Ventura County. Through measures such as agricultural zoning and voter approval for land-use changes, SOAR prevents urban sprawl onto these valuable lands. The SOAR initiative ensures community participation and democratic decision-making.</p> | <p>The Los Angeles Water Board acknowledges that Ventura County residents value agricultural land and open space, as evidenced by the existence of SOAR. The purpose of the Tentative Order is not to take away agricultural land but to curb the polluting side effects of agricultural operations that have</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|--|
| | | Through SOAR, the people have spoken in that they value maintaining agricultural land in Ventura County, and the benefits associated with maintaining land in agricultural production. The impact of SOAR on the economy must be incorporated into any economic analysis to characterize agriculture in Ventura County. | negative effects on local residents and the environment. The Los Angeles Water Board believes that it is feasible and beneficial for agriculture to operate without degrading water quality. |
| 2d.29 | VCAILG | The recognized benefits extend well beyond financial considerations. Agricultural land bolsters food security by contributing to local and regional food supplies and reducing reliance on distant sources. Agricultural landscapes also provide open spaces, recreational opportunities, agri-tourism, and aesthetic appeal, enhancing residents' quality of life. Well-managed agricultural land supports biodiversity, ecosystem services like soil conservation and water filtration, flood plains, and aids in carbon sequestration, promoting environmental sustainability. Ventura County specifically serves as an important link in the food supply, bringing healthy fruits and vegetables globally at magnitudes in the billions of servings annually. | The Los Angeles Water Board also agrees with the commenter that well-managed agriculture can support ecosystem services such as biodiversity, soil conservation, and water filtration. However, only a few farms in Ventura County practice regenerative agriculture, which employs practices that promote and prioritize these values. The vast majority of agricultural land in Ventura County supports conventional agriculture, which does not prioritize these practices and can result in myriad negative externalities, including but not limited to groundwater and surface water pollution associated with agriculture waste discharges. Notwithstanding any benefits |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|--|
| | | | associated with agriculture, as stated in the Staff Report, "generally, water quality is not improving and water quality impairments from agricultural dischargers remain." |
| 2.d.30 | VCAILG | Ventura County agricultural lands embody cultural and historical significance, maintaining traditions and connecting communities to their heritage. Agricultural zones uphold our region's rural character and identity, offering a counterbalance to urban development. Importantly, they contribute to climate resilience through sustainable practices that mitigate and adapt to climate change impacts. | See response to comment 2.d.29 |
| 2.d.31 | VCAILG | Lastly, sustaining agriculture diversifies the local economy, reducing susceptibility to economic fluctuations and fostering overall stability. In April 2023, the County of Ventura County formally adopted the Resilient Agricultural Land Initiative Plan, the result of over four years of engagement with California's Sustainable Agricultural Lands Conservation Program. This document represents robust stakeholder engagement that shaped the long-term vision of Ventura County and a detailed economic analysis. Growers, land trusts, farmworker advocates, the Ag Commissioner, various Ventura County agencies, educators, and members of the public participated in the development of this plan. This work | The monetized benefits values in the Economic Impact Report of the Resilient Agricultural Land Initiative Plan pertain to benefits from regenerative agriculture, which is not practiced on most farms in Ventura County. (See also response to comment 2.d.29.) The Tentative Order however includes provisions intended to promote regenerative agriculture by allowing growers in Ventura County that implement management practices associated |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|--|
| | | has been available for review throughout the process four-year process. This work should be incorporated into Sections 10 and 11, capturing the benefits of agricultural land in Ventura County. | with regenerative agriculture additional time to install management practices to convert to regenerative agriculture pursuant to section 3.4.3 in Appendix 3 to the Tentative Order. |
| 2.d.32 | VCAILG | While the Staff Report mentions the cultural significance of agriculture, it does not delve into potential social, economic, or cultural impacts of the Tentative Order on farmers and local communities, which are important factors for consideration. The Ventura County 2040 General Plan includes provisions for land conservation that should be considered in the adoption of the Tentative Order. Further, the benefits of agricultural land for flood-risk reduction, protection of coastal property, and increased resilience to wildfire are notably absent from the analysis. | See responses to comments 2.d.28 and 2.d.29. |
| 2.d.33 | VCAILG | Any impact of Tentative Order requirements that take agricultural land out of production or that degrades land quality assessments from Prime Farmland or Farmland of Statewide Importance to less protected categories on the State's Important Farmland Inventory should be considered, as such, a result in direct opposition to the stated goals and values of the community. The long-term economic and non- economic impacts of this should be | See response to comment 2.d.28. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|--|
| | | considered as part of the Los Angeles Water Board's mandate to take into account economic considerations. | |
| 2d.34 | VCAILG | <p>The benefits addressed in the Staff Report are rife with inapplicable data and information. For example, the Staff Report attempts to quantify benefits pertaining to agricultural nitrogen reduction and its associated costs to society. However, the literature relied on is unrelated to Ventura County and no effort is made in the Staff Report to apply the literature to localized information. As a result, the broad sweeping claims cannot support the Staff Report's findings. Without more robust justification as to its applicability here, a study from non-coastal corn-country, Illinois, does provide substantial evidence to support conclusions made about benefits applicable to Ventura County.</p> | <p>The Los Angeles Water Board conducted its analysis using the best available data, which included national and state-level estimates for Illinois. There are no known cost-benefit studies on nitrogen reduction in Ventura County, not to mention California. The Los Angeles Water Board did not attempt to transfer values to Ventura County because, as stated by the commenter, conditions in Ventura County may differ from conditions in Illinois specifically or the nation in general. Estimates from these studies were presented to show that benefits from nitrogen reduction are likely to exceed costs, though it is unknown by what magnitude due to the sparseness of studies.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|--|
| 2.d.35 | VCAILG | <p>The Staff Report discusses the potential benefits associated with recreational activities and the anticipated enhancements in water quality. This focus is particularly pronounced in Ventura County, where outdoor water-based recreation holds substantial economic significance. However, the Staff Report appears to attribute the entire discharge burden to farmers, even going so far as to assert that, "[i]t would also shift the costs of water quality improvement from the city to the pollution sources," in reference to the water quality challenges at Channel Islands Harbor. This statement fails to recognize that agriculture is not the only source of pollutants found at Channel Islands Harbor, and that non-pollutant related characteristics are also part of what creates current water quality conditions.</p> <p>Specifically, the cited water quality concerns at Channel Islands Harbor have occurred due to significant alterations in flow dynamics, leading to a drastic increase in dwell time from around 3 days to as much as 28 or even 90 days. Importantly, these conditions are largely unrelated to agricultural activities. Moreover, a considerable portion of the discharge originates from the City of Oxnard, thereby transferring the financial responsibility to farmers could effectively shift costs away from the primary dischargers. Notably absent from the Staff Report is any consideration of the potential impact on the harbor or other waterbodies should agricultural lands be repurposed for residential housing-an</p> | <p>To the extent the commenter is concerned that the Staff Report fails to acknowledge other sources of pollutants at Channel Islands Harbor as well as non-water quality related conditions, the Staff Report mentions that major water quality problems in Channel Island Harbor began "after the closing of the Mandalay Generating Station, which had circulated water in the harbor as part of its operations." The report also states, "reducing pollutant inputs to the harbor including agricultural runoff would be a more effective long-term solution..." Clarifying language has been added to the report to say "one of the pollution sources." Also, see response to comment 2.d.28.</p> |
|--------|--------|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|---|
| | | increasingly likely scenario if the Tentative Order leads to devaluation of land assessments, subsequently resulting in the lands losing protection under SOAR. | |
| 2.d.36 | VCAILG | In the discussion of drinking water quality, the Staff Report fails to provide a clear and quantitative analysis of the potential health and economic benefits associated with reduced agricultural runoff. While acknowledging the health risks and increased treatment costs associated with excess nitrates in drinking water, the report cites a specific situation in El Rio that has been extensively studied. This unfortunate drinking water contamination issues was caused by legacy septic tanks leaking into the localized region and a lack of redundancy in the | <p>Section 11.3 was included to qualitatively discuss the benefits of preserving drinking water access. El Rio was included as a local, recent example where that benefit was lost. The cause of that loss was not discussed in the section.</p> <p>See response to comment 2.d.51.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|--|
| | | infrastructure to deliver water during the clean-up. This situation is in no way connected to agricultural discharges. In fact, there is no evidence that agricultural discharges impact drinking water quality in Ventura County. | |
| 2.d.37 | VCAILG | Section 11 addresses the potential increase in property values near waterbodies affected by Tentative Order implementation. The analysis provided here does not recognize the realities of property values in Ventura County, which is ranked as one of the most expensive places to live in the country. Since agricultural land is protected from development by SOAR, there is limited area to add new housing. This factor completely dominates property values - not the presence of algae at Channel Islands Harbor. In contrast, it is highly unlikely that water quality improvements will have any measurable impact on property values. Additionally, the claims about reduction in chlorophyll and algae, as noted above, are more directly related to residence times and not agricultural run-off. | There are a substantial number of studies that show that changes in water quality affects the prices of nearby homes. The meta-analysis by Guignet et al. (2022) cited in the Staff Report includes 36 such studies. These studies control for multiple other factors that affect home prices in order to isolate the effect of water quality changes. These controls often include time, trends in prices, structural attributes, and neighborhood attributes, among other factors, which indeed are often larger than the effect of water quality changes. While the effect of water quality changes on the price of one home is often small, this effect multiplied by the number of homes affected can become significant, |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|---|---|
| | | | which is the case in the Channel Islands Harbor example. |
| 2.d.38 | VCAILG | <p>In summary, it is imperative that the Los Angeles Water Board properly consider the multifaceted impact of the Tentative Order on Ventura County's agricultural landscape. The Staff Report's limited assessment fails to capture the intricate web of advantages tied to our agricultural heritage. The economic impact of the Tentative Order must be consider a multitude of factors including the creation or elimination of jobs, the viability of new businesses or the elimination of existing businesses, the competitive advantages or disadvantages for farmers in a global market, the removal of land conservation protections and the impact on the local, national, and global food supply as well as other economic, cultural, and environmental contributions of agricultural land. In its simplicity, the Staff Report undermines a comprehensive understanding of the Tentative Order's potential effects. To ensure a balanced assessment that truly reflects the interests of Ventura County, it is crucial that the Staff Report's findings more critically consider the holistic implications of the Tentative</p> | <p>See responses to comments 2.d.1, 2.d.28 and 2.d.29 .</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|--|--|
| | | Order with transparency, sound methodology, and robust stakeholder engagement. | |
| 2.d.39 | VCAILG | <ul style="list-style-type: none">• The Staff Report includes a discussion regarding farm size in Ventura County. However, the analyses provided does not accurately portray farm sizes in Ventura County. Often, landowners' own acreage that is not contiguous or contiguous parcels may be broken out into different management units due to site characteristics. If there are different zones, they may have different operators farming the land. From a programmatic standpoint, these differently managed and/or non-contiguous management zones are distinct farms. | See response to comment 2.35. |
| 2d.40 | VCAILG | First, it is inappropriate for the Staff Report to cite to, or rely on, an unadopted, draft order. As a draft, the order reflects staff opinion and is not an official act of the State Water Board. Further, the draft order is currently under review and consideration by the public, and the hearing | The Los Angeles Water Board disagrees that it is inappropriate to rely on the reasoning the State Water Board's Draft Order on the Central Coast Water Board's |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>for consideration is not scheduled until September 19, 2023. Much can happen during the public review process that impacts the State Water Board's ultimate findings and determinations before adopting the draft order. Moreover, to ensure that all public processes are meaningful, it is inappropriate for any regional board to rely on a draft order. Finally, until the State Water Board has fully vetted and considered comments from the public and adopted a water quality order, the draft has no precedential value and should be disregarded.</p> <p>Second, more importantly, VCAILG disagrees with the general premise set forth in the draft order and the Staff Report. While VCAILG agrees that waste discharge requirements are required to implement relevant water quality control plans, the statute specifically states that such requirements "may contain a time schedule, subject to revision in the discretion of the board." (Wat. Code, § 13263(c).) In other words, waste discharge requirements may include a time schedule for implementing water quality control plan provisions. Nothing in Water Code section 13263(c) limits what basin plan provisions are eligible to receive time schedules in waste discharge requirements. Rather, the discretion is given to the regional boards to determine what is appropriate. However, contrary to the statute, the draft order (and now the Tentative Order) looks to claim that some basin plan provisions are not eligible for in-permit time schedules because the provisions are in the basin plan.</p> | <p>irrigated lands permit. Publicly available draft documents are often relied upon as guidance by both the regulated communities and regulators. As an example, see comment 2b.4(tech) of this same comment package for discussion of Dischargers' reliance on the EPA draft selenium criteria for previous special studies.</p> <p>The staff report recognizes that the State Board's order has not been adopted. However, the Los Angeles Water reviewed and considered its reasoning and agreed that this was the appropriate interpretation of applicable law as discussed below. Any relevant revisions to the State Water Board's draft order that occurs at the September 2023 adoption meeting will be considered.</p> <p>The Los Angeles Water Board also disagrees with the commenter's interpretation of the Water Code. Water Code section 13263(a) says that "[Waste Discharge Requirements] shall implement any</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>Under this logic, arguably no basin plan provisions could be implemented through time schedules.</p> <p>in waste discharge requirements unless authorized directly in an applicable basin plan. Such an interpretation nullifies Water Code section 13263(c), and as a practical matter, would create major havoc considering the number of water quality objectives contained in basin plans that have no associated program of implementation or time schedule for compliance.⁶</p> <p>Further, by implying that Water Code section 13263(c) is limited in applicability to basin plan provisions, the draft order and the Tentative Order violate the rules of statutory construction. “[T]he first step of the interpretive process [is] to look to the words of the statute themselves.” (MacIsaac v. Waste Management Collection & Recycling (SIC), Inc., (2005) 134 Cal.App. 4th 1076, 1082.) “Where the statute is clear, the ‘plain meaning’ rule applies. The Legislature is presumed to have meant what it said, and the plain meaning of the language governs.” (Berry v. State of California, (1992) 2 Cal.App.4th 688, 691.) Here, Water Code section 13263(c) plainly says that waste discharge requirements “may contain a time schedule.” There is no ambiguity within subsection (c). The plain meaning rule requires reading a statute in context (see Katz v. Los Gatos-Saratoga Joint Union High School Dist., (2004) 117</p> | <p>relevant water quality control plans that have been adopted...” All compliance dates in the Tentative Order, except the Santa Clara River Estuary Toxaphene TMDL (a TMDL adopted as a single regulatory action as part of the 2010 Conditional Waiver) and the Oxnard Drain No. 3 Pesticides, PCBs, and Sediment Toxicity TMDL (a U.S. EPA adopted TMDL), implement adopted TMDLs that have implementation plans in the Basin Plan. These implementation plans all establish deadlines for final achievement of the load allocations assigned to irrigated agriculture.</p> <p>While Water Code section 13263(c) indicates that WDRs “may contain a time schedule”, the commenter fails to consider that the Los Angeles Water Board has already adopted time schedules applicable to these discharges.</p> <p>Per Water Code section 13242, TMDLs adopted via Basin Plan amendment are required to include</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>Cal.App. 4th 47, 54), but no other part of section 13263, nor any other section of the article, contains any language that could reasonably call into question whether waste discharge requirements may contain a time schedule.</p> <p>Yet, even if the language was ambiguous, the second step of statutory construction would yield the same result. “When an examination of statutory language in its proper context fails to resolve an ambiguity, courts turn to secondary rules of interpretation, such as maxims of construction...” (Ibid. p. 55.) Take, for example, the canon against surplusage: “[W]e generally must ‘accord significance, if possible, to every word, phrase and sentence in pursuance of the legislative purpose’ and have warned that ‘[a] construction making some words surplusage is to be avoided.’” [Citation.] (People v. Valencia, (2017) 3 Cal. 5th 347, 357 [citations omitted].) Applying this canon to Water Code section 13263 necessitates an interpretation that the legislature intended for subsection (c) to stand on its own - separate from the requirement of subsection (a) to “implement any relevant water quality control plans that have been adopted” in reference to basin plans. If all waste discharge requirements were required to adopt the same schedules as present in the basin plan, then subsection (c) would be functionally useless and mere surplusage because then waste discharge requirements would not</p> | <p>programs of implementation. Per Water section 13242(b), programs of implementation must include “a time schedule for the actions to be taken.” As such, TMDL implementation plans typically include deadlines by which the tasks and milestones contained therein, including achievement of load allocations, must be implemented. These implementation plans are not mere recommendations, they are regulations that must be approved by the State Water Board and the Office of Administrative Law. Nevertheless, TMDL implementations schedules are not self-implementing and must be incorporated into a permit to have the force of law.</p> <p>As such, the more harmonious reading of the Water Code would be to limit the application of 13263(c) to those water quality objectives, discharge prohibitions, and/or TMDLs without specific implementation schedules. Reading Water Code section 13263(c)</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>be authorized to have independent time schedules and regional board discretion would be nullified.</p> <p>Also consider the canon of negative implication: “A negative implication is the unstated but implicitly evident expression of the statute. Thus, the expression of some things in a statute necessarily means the exclusion of other things that are not expressed.” (<i>Spicer v. City of Camarillo</i>, (2011) 195 Cal.App. 4th, 1423, 1427.) Here, the statute does not express limits or conditions on the types of time schedules permitted or restrict them to those already contained in basin plans. All it expresses is that waste discharge requirements may contain a time schedule subject to revision at the discretion of the regional board. Any meaning not expressed in the statute, including whether time schedules are controlled by basin plan provisions, should be excluded.</p> <p>Also consider the canon of negative implication: “A negative implication is the unstated but implicitly evident expression of the statute. Thus, the expression of some things in a statute necessarily means the exclusion of other things that are not expressed.” (<i>Spicer v. City of Camarillo</i>, (2011) 195 Cal.App. 4th, 1423, 1427.) Here, the statute does not express limits or conditions on the types of time schedules permitted or restrict them to those already contained in basin plans. All it expresses is that waste discharge requirements may contain a time schedule subject to revision at the discretion of the</p> | <p>otherwise renders the TMDL implementation schedules in the Basin Plan meaningless. To the extent Water Code 13263(c) can be read to allow time extensions within a permit, the more appropriate interpretation of this provision is that it allows the Los Angeles Water Board to include time schedules in a WDR for TMDLs that have do not implementation schedules in the Basin Plan. The commenter has not requested any such time extensions and the Los Angeles Water Board has not determined that any such extensions are warranted. Therefore, the Los Angeles Water Board declines to carry over any deadline extensions from the 2016/2021 Waiver or adopt new deadline extensions through the Tentative Order.</p> <p>For TMDLs with implementation schedules, any extension of time granted for these deadlines are more appropriately done through a basin plan amendment or TSO under Water Code section 13300.</p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>regional board. Any meaning not expressed in the statute, including whether time schedules are controlled by basin plan provisions, should be excluded.</p> <p>Finally, consider the canon of harmonious reading: “When construing statutes, we consider the language of the entire statutory scheme ‘so as to harmonize its various elements without doing violence to its language or spirit.’ [Citation.] This rule... is known as the harmonious-reading canon.” (Landau v. Superior Court, (2019) 32 Cal. App. 5th 1072, 1082 [Citation omitted].) The draft order and the Staff Report violate this rule by interpreting subsection (a) “shall implement any relevant water quality control plans” as exclusionary from what is then permitted under subsection (c). These two subsections are in harmony if subsection (c) is read as allowing time schedules for implementing provisions from relevant basin plans – without limitation. Therefore, this is how the statute ought to be read.</p> <p>Accordingly, based on the rules of statutory construction, the Los Angeles Water Board has the discretion to include time schedules in waste discharge requirements that are different from those adopted into the Water Quality Control Plan for the Los Angeles Region.⁷ The draft order and the Staff Report both make erroneous determinations on this issue and are contrary to applicable law.</p> | <p>The Staff Report will be updated to include a reference Water Code section 13000. However, the Los Angeles Water Board notes that TSOs are discretionary and typically granted on a case-by-case basis. While legally the Los Angeles Water Board may issue a TSO, including a general TSO that applies to all growers in Ventura County, it is not mandated to do so. Furthermore, depending on the participation levels in the Track 2 compliance option in Appendix 3, a TSO may not be necessary as these growers would be deemed in compliance with applicable discharge limitations provided they are developing and implementing an approved MPP.</p> <p>To the extent this comment can be interpreted to request that the Los Angeles Water Board consider adopting a TSO with the proposed Order, the Los Angeles Water Board notes that TSOs are required to be noticed for 30 days per Water Code 13167.5.</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | <p>Moreover, the Staff Report makes an additional error by ignoring the potential use of Time Schedule Orders to extend compliance dates for existing TMDLs with past due dates. (Staff Report, p. 114.) The Staff Report states that the appropriate regulatory mechanism to extend dates consists only of a basin plan amendment. However, the State Water Board specifically acknowledges and endorses the use of time schedule orders until such basin plan amendments can be accomplished. (State Water Board draft order, pp. 30-31.)</p> <p>Accordingly, the Staff Report needs to be revised to reflect the correct interpretation of the statute. At the very least, the Staff Report needs to be revised to acknowledge that time schedule orders may also be adopted to extend compliance dates for growers in Ventura County.</p> <p>⁶ The Staff Report's reference and reliance on State Water Resources Control Bd. Cases (2006) 136 Cal.App.4th 674, 735, is misplaced because it fails to recognize a critical distinction between the State Water Bd. Cases and the Tentative Order, which is that the State Water Bd. Cases decision was dealing with a Water Rights Order – not waste discharge requirements under Water Code section 13263. Here, the Los Angeles Water Board is given direct statutory authority to adopt time schedules when adopting waste discharge</p> | |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | <p>requirements. Thus, the Court's decision in the State Water Bd. Cases is not applicable and does not support the Tentative Order.</p> <p>⁷ Notably, the draft order's reliance, and by extension the Staff Report's reliance, on State Water Board WQ 2015-0075 is misplaced because the Los Angeles municipal separate storm sewer system permit is a National Pollutant Discharge Elimination System (NPDES) permit governed by federal law, which contains different restrictions on the use of compliance schedules in permits.</p> | |
| 2d.41 | VCAILG | <p>VCAILG Has Concerns with the Staff Reports Documented Compliance with CEQA</p> <p>As documented in the Staff Report in Section 15, the Los Angeles Water Board proposes to rely on the Mitigated Negative Declaration for the 2016 Conditional Waiver in order to comply with the California Environmental Quality Act ("CEQA"), CEQA's statutory framework clearly sets forth a series of analytical steps intended to promote the fundamental goals and purposes of environmental review—information, public participation, mitigation, and governmental agency accountability. (Cal. Code Regs., tit. 14, § 15002; see also Pub. Resources Code, §§ 21001, 21001.1, 21002, 21003, 21006, 21064.) CEQA's intent and purpose foster informed public participation and decision-making. (<i>Laurel Heights Improvement Assn. v. Regents of University of California</i> (1988) 47 Cal.3d 376, 404 ("<i>Laurel Heights I</i>").) As the lead agency</p> | <p>It is appropriate to rely on the 2016 Mitigated Negative Declaration. The Tentative Order is a continuation of the requirements of the 2016/2021 Waiver [Staff Report, p. 113], with modifications that do not trigger the need for new or additional environmental review. The commenter's position that the 2016/2021 Waiver is a separate and distinct project from the Tentative Order because the latter has "different and more extensive" "conditions, restrictions, and regulations" as compared to the 2016/2021 Waiver lacks merit. Rather, the Tentative Order is</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|---|
| | <p>for the Project, the regulation of discharges from irrigated lands via waste discharge requirements, the Los Angeles Water Board must comply with CEQA's overall objectives, which are to: 1) inform the decision-makers and public about the potential significant environmental effects of a proposed project; 2) identify ways that environmental damage may be mitigated; 3) prevent significant, avoidable damage to the environment by requiring changes in projects, through the use of alternative or mitigation measures when feasible; and 4) disclose to the public why an agency approved a project if significant effects are involved. (Pub. Resources Code, § 21080.5(a).)</p> <p>An attempt to review the environmental impacts of the proposed General WDRs was included within the Review of Conditional Waiver Order No. R4-2016-0143/R4-202100045-A02 and Recommendations for Waste Discharge Requirements (Staff Report). Unfortunately, a full CEQA review and environmental analysis has been avoided due to the proposed General WDRs' improper reliance on the Mitigated Negative Declaration prepared for the 2016 Conditional Waiver, which was a renewal of the 2005, 2010, and 2015 Conditional Waivers.</p> <p>Upon review of the 2016 Conditional Waiver, the 2016 Mitigated Negative Declaration concluded that impacts to agricultural resources will be "less than significant with mitigation." (2016 MND, p. 33.) The proposed General</p> | <p>properly characterized as the same project as the 2016/2021 Waiver, with changes, because it largely carries over requirements from the 2016/2021 Waiver.</p> <p>In fact, and as noted by the Commenter, the Tentative Order is a continuation of the project that formally started with the adoption of R4-2005-0080, <i>Conditional Waiver of Waste Discharge Requirements for Discharges from Irrigated Lands</i>. Since its inception, the regulatory framework for irrigated lands in the Los Angeles Region has been to provide a process by which water quality was determined and compared to water quality benchmarks and then drive implementation of condition-specific management practices to address exceedances.</p> <p>R4-2005-0080 specified "<i>The intent of this Conditional Waiver is to attain water quality objectives in receiving waters by regulating discharges from irrigated lands within the Los</i></p> |
|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>WDRs and the Staff Report rely upon this analysis to conclude that the 2023 General WDRs will also not have any significant impacts to agriculture. (Proposed General WDRs, pp. 13-14; Staff Report, pp. 141-142.) For numerous reasons, such conclusions are improper. The 2016 Conditional Waiver is a separate project from the proposed General WDRs. In addition, the conditions, restrictions, and regulations within the proposed General WDRs are different from and more extensive than those contained in the 2016 Conditional Waiver. These new requirements include riparian buffer requirements and structural management practices that will convert agricultural land out of production, thus impacting agricultural resources. (Appendix 3, pp. 19-20, 27.) Mere reference to and reliance upon an environmental analysis conducted at least eight years previous is not only inappropriate, but also flawed and violates CEQA. (See <i>Burbank-Glendale-Pasadena Airport Authority v. Hensler</i> (1991) 233 Cal.App.3d 577, [reliance on a negative declaration prepared for a previous more limited airport taxiway project was a prejudicial abuse of discretion as the previous project was “a substantially different project.”].) Further, a previous Negative Declaration can only be relied upon if the <i>project is the same</i> and the <i>impacts are the same</i>. Neither factor applies here. (Cal. Code. Regs., tit. 14, § 15063(c), “Determine, pursuant to a program EIR, tiering, or another appropriate process, which of a project’s effects were adequately examined by an earlier EIR or negative</p> | <p><i>Angeles Region to ensure that such discharges are not causing or contributing to exceedances of applicable water quality standards. This Conditional Waiver uses benchmarks to identify areas where management practices need to be upgraded to attain water quality objectives in receiving waters. This Conditional Waiver will document the extent of nonattainment and require actions to be taken toward attainment of water quality objectives. Subsequent conditional waivers or other regulatory mechanisms for discharges from irrigated lands may include effluent limitations or comparable requirements to ensure attainment of water quality objectives.”</i></p> <p>This framework has been carried over and refined in each waiver term, but ultimately the purpose, and by extension the “Project” has not changed. The primary difference in the Tentative Order is the mechanism by which it is being administered (WDRs adopted under</p> |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | <p>declaration.”) The 2016 Conditional Waiver is a separate project from the 2023 proposed General WDRs. Thus, any reliance on the 2016 Mitigated Negative Declaration for determination of significant effects under the 2023 proposed General WDRs is improper and defeats the basic intent of CEQA.</p> | <p>Water Code 13263 versus a Conditional Waiver adopted under Water Code 13269). The regulatory vehicle, however, does not have environmental impacts beyond the scope of the previous Mitigated Native Declaration that make it a “new” project for the purposes of CEQA. The main components of the previous waivers and the Tentative Order have remained constant and include, but are not limited to:</p> <ul style="list-style-type: none">• Grower education;• Water quality sampling program (of which many of the monitoring sites were identified at beginning of the program and remain presently active);• Annual monitoring and reporting;• Water quality benchmarks;• TMDLs (added in the 2010 Waiver cycle);• responsibility areas;• WQMP; |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <ul style="list-style-type: none">• and discharge limitations (added in the 2016 Waiver Term). <p>The commenter's attempt to characterize the Tentative Order as a "new project" is not only incorrect, but also irrelevant. Under CEQA, new or additional environmental review is not automatically required when there are changes to the underlying project. On the contrary, once environmental review has been conducted, CEQA presumes that additional environmental review is not required. (Pub. Res. Code §21166; 14 CCR § 15162(a).) These provisions balance "CEQA's central purpose of promoting consideration of the environmental consequences of public decisions with interests in finality and efficiency." (<i>Friends of Coll. of San Mateo Gardens v. San Mateo Cnty. Cmty. Coll. Dist.</i> (2016) 1 Cal. 5th 937, 949.) As noted by the California Supreme Court, "it would ... be "absurd" to require agencies to restart the entire process of environmental review from scratch</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>each time the agency proposes any change, no matter how minor, simply because the project was previously approved by negative declaration.” (<i>Id.</i>, FN 6). And yet, the commenter asks the Los Angeles Water Board to do just that.</p> <p>The Tentative Order incorporates new monitoring and reporting tasks not included in the previous waivers. Specifically, the Tentative Order requires additional irrigation and nutrient management reporting (including outlier identification), maintenance of certain records for 10 years, and groundwater quality trend monitoring. These tasks were added as required by the precedential State Board Order, WQ 2018-0002 (ESJ Order). While new, these tasks are fundamentally reporting in nature and do not fundamentally change the nature of the project so as to trigger new or subsequent CEQA review .</p> <p>Another change from the 2016/2021 Waiver Term and the Tentative</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>Order is the extent to which individual discharge limitations will go into effect. The number of discharge limitations that are triggered in the Tentative Order has increased as, compared to the previous waivers. In part, the increased number of discharge limitations is because the compliance deadlines were updated consistent with the time schedules in the Basin Plan. However, even without this change, many of these discharge limitations would have been triggered under the Tentative Order because the growers have not made sufficient progress meeting the applicable water quality benchmarks under the prior waivers. Irrespective of the date the individual discharge limitations are triggered, it is important to note that the 2016/2021 Waiver already included discharge limitations. The fact that there are more discharge limitations under the Tentative Order is not a substantial change that triggers additional environmental review under CEQA because compliance</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>with these limits requires the same types of structural and nonstructural management practices that already contemplated in the 2016 Mitigated Negative Declaration.</p> <p>Furthermore, the Tentative Order does not change the underlying water quality objectives. The Dischargers are subject the same water quality benchmarks in The Tentative Order (Appendices 4 and 5) as they were in the 2016/2021 Waiver. Whether the order is assessing compliance with these water quality benchmarks through group-based receiving water monitoring or individual discharge limitations, the growers are expected to install appropriate management practices to meet applicable water quality standards. The need for structural management practices to reduce, eliminate and/or treat agricultural discharges has been known for decades. (See e.g. Section 4.5.3 of the Calleguas Creek Nutrients TMDL Staff Report dated October 24, 2002 discussing cost estimates for agricultural BMPs,</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>such as filter strips, sediment basins, and infiltration trenches; Section 10.7.1 of the Calleguas Creek Nutrients TMDL Staff Report dated June 16, 2003 discussing cost estimates for agricultural BMPs, such as filter strips, sediment basins, and infiltration trenches; sections 5.4-5.5 of the Substitute Environmental Document for Algae, Eutrophic Conditions, and Nutrients TMDL for Ventura River, discussing agricultural implementation of filter stripes, mulching, and riparian buffers/stream bank stabilization.) To that end, the 2016 Mitigative Negative Declaration analyzed the same structural management practices that are discussed in the Tentative Order and the Staff Report. For example, Section 3.1 and 3.2 of 2016 Mitigated Negative Declaration describes and analyzes anticipated environmental impacts associated with a number of structural and non-structural management practices, including but not limited to: tailwater recovery, denitrifying bioreactors, catchment</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>ponds, tailend berms, vegetated swales, and filter strips (also known as riparian buffers), and irrigation management. The environmental impacts associated with implementation of these management practices has not increased under the Tentative Order merely because the regulated community declined to implement these measures under the 2016/2021 Waiver.</p> <p>Likewise, growers enrolled in the Tentative Order may also be subject to the additional task of developing and implementing an MPP, if they choose Track 2 to comply with the discharge limitations. Again, this task is administrative and does not result in environmental impacts beyond what was included in the previous waivers.</p> <p>To extent the commenter argues that requirements in the Tentative Order mandate the use of the riparian buffers and therefore trigger additional or subsequent</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|--|
| | | | <p>environmental review, the Los Angeles Water Board has clarified that riparian buffers are not mandatory (see response to comment 2b.20). But even if it did, riparian buffers were previously evaluated in the 2016 Mitigated Negative Declaration.</p> <p>In light of all of the above, the Los Angeles Water Board has determined that the modifications to the Tentative Order from the 2016/2021 Waiver do not trigger subsequent environmental review under CEQA and that it can rely on the 2016 Mitigated Negative Declaration in adopting this Order.</p> |
| 2d.42 | VCAILG | <p>Here, VCAILG provides comments on inaccurate factual information contained in the Staff Report. For the sake of accuracy and clarity, VCAILG requests revisions to these sections of the Staff Report as presented here.</p> | <p>The staff report is factually correct. See comment 2d.43.</p> |
| 2d.43 | VCAILG | <p>Correct Statement That, Generally, Water Quality is Not Improving</p> <p>Section 6.1 of the Staff Report contains the following statement “Water quality data for Ventura County from the 2016/2021 Waiver and previous waiver terms demonstrates that, generally, water quality is not</p> | <p>The statement “Water quality data for Ventura County from the 2016/2021 Waiver and previous waiver terms demonstrates that, generally, water quality is not improving and water quality impairments from agricultural</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | <p>improving and water quality impairments from agricultural dischargers remain.” This statement is not supported by the analyses included in Section 6.1 and is in conflict with the demonstrations of water quality improvement summarized in the 2023 Waste Discharge Requirements Administrative Draft (R4-2023-XXXX) Farm Bureau of Ventura County Comment letter dated May 15, 2023. We request that this statement be corrected or omitted from the Staff Report.</p> | <p>dischargers remains” is strongly supported by section 6.1. of the Staff Report. The analyses included in Section 6.1 of the Staff Report included data from 2007 to 2022, a period of fifteen years, collected by the discharge group, itself, specifically to track effectiveness of agricultural water quality improvement programs. The data are plotted in section 6.1. so that trends could be inferred by inspection.</p> <p>Nitrate is a pollutant strongly associated with agricultural discharges. Figure 3., Nitrate Concentrations at VCAILG Calleguas Creek Watershed Representative Monitoring Sites during Dry Weather, shows a single site, of five, where nitrate concentrations have decreased in dry weather and four sites where nitrate concentrations have increased. In Figure 4., Nitrate Concentrations at VCAILG Calleguas Creek Watershed Representative Monitoring Sites</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>during Wet Weather, two sites have decreased in nitrate concentrations in wet weather, at the other sites, nitrate concentrations have essentially, remained the same or increased. Most samples, even in recent years, exceed the benchmark. Therefore, it cannot be said that, in general, nitrate water quality is improving in the Calleguas Creek watershed.</p> <p>While in the Santa Clara River watershed nitrate concentrations are lower than in the Calleguas Creek watershed (Figures 6 and 7), the Santa Clara data show a similar picture – some sites have decreased and some increased and several sites continue to exceed the benchmark even in the most recent years. Therefore, it cannot be said that, in general, nitrate water quality is improving in the Santa Clara River watershed.</p> <p>Ventura River has had better nitrate water quality than the other watersheds in Ventura County.</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>However, while nitrate concentrations for two of the assessed sites have been under benchmark and unchanging (Figure 9), one site increased to above benchmarks in recent years. Therefore, it cannot be said that, in general, nitrate water quality is improving in the Ventura River watershed.</p> <p>DDT is a pollutant strongly associated with agricultural discharges. Figure 11., 4,4' DDT Concentrations at VCAILG Calleguas Creek Watershed Representative Monitoring Sites during Dry Weather, shows two sites (one above benchmarks, one below) staying about the same and the other four sites increasing to a small degree (two sites) or a large degree (two sites). Figure 12., 4,4' DDT Concentrations at VCAILG Calleguas Creek Watershed Representative Monitoring Sites during Wet Weather, shows that while two of seven sites have decreased to a small degree and</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>one has continued at about the same level, DDT concentrations at four of the sites have increased. Almost no water quality data for DDT are below the benchmarks even in recent years. Therefore, it cannot be said that, in general, DDT water quality is improving in the Calleguas Creek watershed.</p> <p>While the Santa Clara River watershed DDT concentrations are lower than in the Calleguas Creek watershed (Figures 14 and 15), the Santa Clara data show a similar picture – some sites have decreased and some increased and most sites continue to exceed the benchmark even in the most recent years. Therefore, it cannot be said that, in general, DDT water quality is improving in the Santa Clara River watershed.</p> <p>Ventura River has had better DDT water quality than the other watersheds in Ventura County. However, both sites assessed (Figure 17) show DDT</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>concentrations increasing and remaining above benchmarks even in recent years. Therefore, it cannot be said that, in general, DDT water quality is improving in the Ventura River watershed.</p> <p>Chlorpyrifos and diazinon are pollutants strongly associated with agricultural discharges. However, use of chlorpyrifos and diazinon have decreased and both pesticides degrade much more quickly than, for example, DDT. Chlorpyrifos and diazinon are decreasing in all the Ventura County watersheds (Figures 19, 20, 22, 23, 25, 26, 28, 29, 31, and 33) although some exceedances of benchmarks still occur especially in the Calleguas Creek watershed. In regards to chlorpyrifos and diazinon, water quality has improved in Ventura County watersheds.</p> <p>Pyrethroids, including bifenthrin, are pollutants strongly associated with agricultural discharges. In the Calleguas Creek watershed, data</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>show that most sites in dry weather have decreased in bifenthrin concentrations and even have decreased below benchmarks (Figure 35). In wet weather, while data show that bifenthrin has decreased, most sites remain above benchmarks (Figure 36).</p> <p>In the Santa Clara River watershed, in dry weather, while one site has decreased in bifenthrin concentrations, one site remained about the same, two sites have increased (Figure 38), and some sites remained above benchmarks including in recent years. In wet weather, while several sites showed a slight decrease, two sites have increased markedly (Figure 39) and many data were above benchmarks including recent years.</p> <p>In the Ventura River watershed, bifenthrin concentrations have decreased and remain below benchmarks (Figure 40).</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>The Calleguas Creek, Santa Clara River and Ventura River watersheds show both increases and decreases in bifenthrin, but there are enough data above benchmarks and sites where concentrations have increased, to make a general statement of improvement inaccurate.</p> <p>Toxicity tests can act as a 'integrator' of all the water quality impacts at once. Toxicity in the Calleguas Creek, Santa Clara River and Ventura River watersheds have not improved (Figure 50).</p> <p>Analysis of long-term data, even though some data appear to show improvements for some constituents (chlorpyrifos, diazinon, some bifenthrin, and few individual sites for other pollutants), most data show other constituent concentrations which appear stagnant or trending upwards (significantly, nitrate, DDT, and toxicity). This demonstrates that generally, water quality is not improving and water quality</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>impairments from agricultural dischargers remain.</p> <p>The Farm Bureau of Ventura County Comment letter dated May 15, 2023 on the 2023 Waste Discharge Requirements Administrative Draft included several comments to assert water quality was improving including a comment on the CWA section 303(d) list of impaired waters which is included as part of the Integrated Report.</p> <p>To further highlight examples of water quality progress over the various Conditional Waiver terms, Table 2 contains the waterbody-pollutant combinations that have been delisted since 2016 or are proposed to be delisted under the draft 2024 Integrated Report...</p> <p>Table 2 then includes 38 examples of waterbodies/pollutant combinations which were delisted in the 2016 303(d) list or which are proposed for delisting in the draft 2024 303(d) list which is included as</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>part of the draft 2024 Integrated Report.</p> <p>The 303(d) list assess all readily available data by frequency of exceedance without reference to trends with rare exceptions. The assessment completed for all 38 examples of waterbody/pollutant delisting actions or proposed delisting actions do not include any assessment of trends and do not reflect progress for any specific pollutant.</p> <p>If the commenter means to assert that the sheer number of delistings or proposed delistings demonstrates improved water quality, we note that the number of new listings in 2016 and proposed new listings for the 2024 report greatly outnumber of delistings in 2016 or proposed new delisting for the draft 2024 report. The 2016 303(d) list and Integrated Report for the Los Angeles region included 62 delistings and 129 new listings. The Proposed 2024 303(d)</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>list included 30 delistings and 465 new listings.</p> <p>In addition, the specific 303(d) delisting examples the commenter provided in the May 15, 2023 letter are often misleading when considered without context. To illustrate, the first nine examples are reviewed, below:</p> <p>1. The commenter provides Calleguas Creek reach 1 for zinc. Zinc is proposed for delisting in the 2024 proposed 303(d) list. The 'fact sheet' for the 2024 proposed delisting notes that the 2016 listing decision was an error: This waterbody was originally listed in 2002 for zinc. However, during TMDL development, it was found that the waterbody no longer exceeded the CTR targets. Of 59 samples taken in Mugu Lagoon since 1998, none showed an exceedance of the CTR zinc criterion. The decision language for the decision from the 2016 303(d) list stated that the waterbody should</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>be delisted, but the decision was erroneously set as "List." The proposed delisting decision, therefore, does not represent an improvement in water quality.</p> <p>In addition, Calleguas Creek reach 1 is listed for chlordane, DDT, dieldrin, endosulfan, nitrogen, PCBs, sedimentation/siltation, toxaphene, toxicity, and the metals copper, mercury, and nickel.</p> <p>2. The commenter provides Calleguas Creek reach 3 (Potrero Rd. to Conejo Creek) for the proposed delisting of ammonia.</p> <p>While ammonia is proposed to be delisted it is likely the reduced ammonia in the watershed is due to recently established nitrification/denitrification at wastewater treatment plants. The Calleguas Creek Nitrogen TMDL (effective 2003) identified wastewater treatment plants as the major sources of ammonia in the watershed. The only sources</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>assigned ammonia waste load allocations were wastewater treatment plants. The TMDL also assigned nitrate and nitrite waste load or load allocations to the wastewater treatment plants and agricultural dischargers. Agricultural dischargers were assigned load allocations for nitrate and nitrite, but not ammonia because they are not a significant source of ammonia. Therefore, while the delisting of ammonia represents an improvement in water quality it does not represent an improvement in water quality due to changes in agricultural discharges.</p> <p>In addition, Calleguas Creek reach 3 also includes listings for chlordane, chloride, DDT, dieldrin, indicator bacteria, PCBs, sedimentation/siltation, Total Dissolved Solids (TDS), toxaphene, trash and the nutrients, nitrate and nitrite. Calleguas Creek reach 1 is also proposed for new listings of aluminum, bifenthrin, chlorpyrifos, diazinon, dichlorvos, disulfoton,</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>endosulfan, sulfate, fenthion, heptachlor, heptachlor epoxide, iron, malathion, methoxychlor, naled, oil and grease, parathion, pyrethroids, toxicity, and turbidity.</p> <p>3. The commenter provides Calleguas Creek Reach 4 (Revolon Slough) for the delisting of Boron. Boron was, in fact, delisted in 2010. In 2002, USEPA placed Calleguas Creek reach 4 on the 303 (d) list for boron, finding that the boron guidelines were exceeded in 11 of 13 samples. However, the TMDL for Boron, Chloride, Sulfate, and TDS (Salts) in the Calleguas Creek Watershed in 2007 further determined that “The segment of Reach 4 below Laguna Road is tidally influenced and therefore not impaired for chloride, boron, sulfate, and TDS” and, therefore, not subject to freshwater boron standards. The delisting of boron does not represent an improvement in water quality.</p> <p>In addition, Calleguas Creek Reach 4 is also currently listed for</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>aluminum, dimethoate, fenpropathrin, ChemA, chlordane, chlorpyrifos, diazinon, dieldrin, endosulfan, fecal coliform, nitrate as nitrate (NO₃), nitrogen, PCBs, sedimentation/siltation, selenium, Total DDT, toxaphene, toxicity, and trash. Proposed new listings for the 2024 list include aluminum, dimethoate, and fenpropathrin.</p> <p>4. The commenter provides Calleguas Creek Reach 4 (Revolon Slough) for the delisting of excess algal growth in 2016. The reason for the delisting in 2016 was “Flaws in original listing.” The fact sheet further explained that “The original line of evidence supporting the listing does not identify a pollutant but rather, a condition caused by a pollutant(s) (excess algal growth).” The delisting of excess algal growth does not represent an improvement in water quality particularly as Calleguas Creek reach 4 continues to be impaired for the algae-causing nitrate as nitrate (NO₃) and nitrogen</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>in addition to the other pollutants listed, above.</p> <p>5. The commenter provides Calleguas Creek Reach 4 (Revolon Slough) for the delisting of TDS. Similar to example No. 3, TDS was delisted in 2010. The TMDL for Boron, Chloride, Sulfate, and TDS (Salts) in the Calleguas Creek Watershed in 2007 further determined that “The segment of Reach 4 below Laguna Road is tidally influenced and therefore not impaired for chloride, boron, sulfate, and TDS” and, therefore, not subject to freshwater TDS standards. The delisting of TDS does not represent an improvement in water quality.</p> <p>6. The commenter provides Calleguas Creek Reach 4 (Revolon Slough) for the delisting of sulfates. Similar to example No. 3, sulfates was delisted in 2010. The TMDL for Boron, Chloride, Sulfate, and TDS (Salts) in the Calleguas Creek Watershed in 2007 further determined that “The segment of</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>Reach 4 below Laguna Road is tidally influenced and therefore not impaired for chloride, boron, sulfate, and TDS” and, therefore, not subject to freshwater sulfate standards. The delisting of sulfates does not represent an improvement in water quality.</p> <p>7. The commenter provides Calleguas Creek Reach 5 (Beardsley Channel) for the delisting of excess algal growth in 2016. The reason for the delisting in 2016 was “Flaws in original listing”. The fact sheet further explained that “The original line of evidence supporting the listing does not identify a pollutant but rather, a condition caused by a pollutant(s) (excess algal growth).” The delisting of excess algal growth does not represent an improvement in water quality particularly as Calleguas Creek reach 5 continues to be impaired for the algae-causing nitrogen in addition to the other pollutants listed, below.</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>In addition, Caellguas Creek reach 5 is listed for ChemA, chlordane, chlorpyrifos, DDT, diazinon, dieldrin, endosulfan, PCBs, sedimentation/siltation, toxaphene, toxicity, and trash.</p> <p>8. The commenter provides Calleguas Creek Reach 5 (Beardsley Channel) for the delisting of dacthal in 2016. The 2016 fact sheet stated "When dacthal in sediment was listed for the Beardsley Channel, an approved sediment quality guideline was unavailable. As of today, an approved sediment quality guideline, with recommended values for dacthal in sediment, is not available. Without approved reference values for dacthal in sediment, determining impairment for dacthal in sediment is not possible. As such, based on the readily available data and information, the weight of evidence indicates that there is sufficient justification for removing this water segment-pollutant combination from the section 303(d) list." The delisting</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>of dacthal does not represent an improvement in water quality.</p> <p>9. The commenter provides Calleguas Creek Reach 6 (Conejo Creek to Hitch Rd.) for the proposed delisting of diazinon. Per the fact sheet, the assessment of data for the proposed 2024 303(d) list included new and more recent data. The fact sheet states “Diazinon was not listed on the 303(d) list because of an impairment to this water body but rather because it is in a watershed for which a relevant TMDL was written. The USEPA final decision for the 2006 303(d) list added this listing to the “being addressed by USEPA approved TMDL” portion of the 303(d) List because it approved the Calleguas Creek Toxicity TMDL on 03/14/2006.” The assessment in 2024 considered several lines of evidence with sufficient data not exceeding the guideline in order to delist diazinon. The delisting of diazinon may represent an improvement in water quality.</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>However, a single identified change to the 303(d) list alone does not render the Staff Report inaccurate.</p> <p>Calleguas Creek Reach 6 is also listed for ammonia, chlordane, chloride, chlorpyrifos, DDT (sediment), diazinon, dieldrin, indicator bacteria, nitrate and nitrite, nitrate as nitrate (NO₃), sedimentation/siltation, sulfates, TDS, toxicity and is proposed for listing for bifenthrin, cyfluthrin, cypermethrin, DDT, nitrogen/nitrate, permethrin, pyrethroids, selenium and toxaphene. Therefore, no change has been made to the Staff Report as it is factually correct.</p> <p>Furthermore, the water quality analysis in the May 15, 2023 Farm Bureau of Ventura County Comment Letter is based on less stringent criteria than the Los Angeles Water Board's analysis.</p> <p>VCAILG uses a 33.3% exceedance rate as the threshold of whether BMPs are needed, whereas the Los</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------|--------|--|--|
| | | | Angeles Water Board considers approximately a 10% exceedance rate to categorize a waterbody as impaired. (10% is based on the 303 (d) Listing Policy. The actual percentage rate varies based on total number of samples but is typically around 10%). The May 15, 2023 VCAILG letter stated “water quality benchmarks are being met in the majority of cases”. The graphs included in that letter showed this was true with 58% meeting benchmarks (based on the high threshold of 33%). Technically, a majority (being over 50%) is being met. However, that leaves 42% not meeting water quality benchmarks and impaired. |
| 2.d.44 | VCAILG | Remove Inappropriately Applied Trend Lines to Monitoring Data Analysis The Staff Report Monitoring Data Analysis Methodology (Section 6.1.2) is an inappropriate approach for drawing | Trendlines are not inappropriately applied. The data analysis section focused on the magnitude and frequency of |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|---|--|
| | <p>conclusions regarding the current status or trends in water quality related to the sites and constituents graphed. As part of the 2016 Conditional Waiver requirements, VCAILG submitted a Source Investigation Work Plan in October 2018 (revised January 2019). To complete this requirement, VCAILG needed to determine monitoring sites that “do not show decreasing trends in the concentration of constituents that exceed Water Quality Benchmarks” (2016 Conditional Waiver, Appendix 3, Section 2.d). To rigorously evaluate the monitoring data collected to date, VCAILG, similar to the Staff Report, graphed time series plots for particular site, constituent, and sample condition (i.e. wet or dry weather) combinations. The approaches were also similar in using half the method detection limit for non-detect samples. From there the approaches diverge as VCAILG employed both the Mann Kendall test and least squares regression on each time series. The Mann Kendall test required more than four samples, and a significant trend required both a p value <0.05 and an absolute value of Kendall’s Tau >0.3. For a significant least squares regression trend, trend line slope, p value and r^2 were used and all trends were visually confirmed. Results of the Mann Kendall test were prioritized.</p> <p>While we appreciate the acknowledgement that the “trend lines” presented in the Staff Report are not statistical trends, but included as a visual representation, this statement does not negate the misleading visual</p> | <p>water quality benchmark exceedances (as reflected by the inclusion of exceedance tables, exceedance heat maps and a benchmark reference line on each time series) The times series were included to visually display water quality results over time and the trendlines were included for further visual reference. The Staff Report clearly states trendlines are not statistical, in comparison to the VCAILG Source Investigation Workplan that specifically called for a “statistical trend analysis”. The format of the water quality time series graphs (including trendlines) in the staff report are consistent with water quality time series in previous staff reports and other reporting documents and continue to be included here for consistency. The commentor used similar trend lines in the May 15, 2023 letter to the Los Angeles Water Board.</p> <p>As the focus was on exceedances, a statistical trend analysis was not utilized to examine water quality and</p> |
|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | <p>impact of the graphs that follow. Furthermore, while some monitoring sites consistently have flow and are therefore regularly sampled per the monitoring schedule; a number of sites are dry most of the time due to efficient irrigation practices, particularly during dry weather sampling. The impact of these dry conditions demonstrating compliance is lost in the way the data has been presented. If you are not performing statistical analysis, then there is no reason to omit plotting dry site conditions as simply a zero concentration for a particular event, which would better represent the overall history of sampling. We request that the graphs be revised accordingly.</p> | <p>would have entailed resources beyond what was necessary to examine the data. As the VCAILG 2019 Source Investigation Workplan stated, "A statistical analysis result of no trend does not confirm that water quality is improving or degrading. The existing WQMP Outreach Plan requires BMP implementation and actions by VCAILG members for all cases where the exceedance threshold is met, regardless of trend analysis results."</p> <p>The commentor is not specific as to what part of the graphs are misleading, but as discussed in the response to comment 2d.43, contrary to the position of the commentator, water quality is not improving and the graphs are in fact a reflection of the data collected to date, as provided by VCAILG.</p> <p>The time series charts are not intended to document compliance but rather graphically display exceedance events throughout the</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | | <p>monitoring program. As sampling events in which monitoring locations are dry are not exceedance events, they are not included on the graphs.</p> <p>No revisions to the graphs are necessary in response to this comment.</p> |
| 2d.45 | VCAILG | <p>Correct Statement Regarding VCAILG Education and Outreach Focus</p> <p>In Section 8.1 of the Staff Report, Los Angeles Water Board staff state that VCAILG Education and Outreach program contains little to no focus on erosion control, sediment retention, or runoff treatment. A significant portion of the education workshops conducted during the 2016/2021 Waiver term, particularly those conducted in the past few years, have focused on healthy soils practices, which includes erosion and sediment control practices. Additionally, NRCS and RCD staff regularly discuss structural control practices during VCAILG education workshop presentations and a November 2022 workshop focused on runoff treatment research and technology. We request that this statement be corrected or omitted from the Staff Report.</p> | <p>The importance of the educational outreach VCAILG has conducted throughout the Waiver program and the broad range of topics that are necessary to encourage better grower practices and active involvement in the program is recognized.</p> <p>The Staff Report has been updated with clarifying language.</p> <p>The statement now reads “<u>Historically</u>, VCAILG education and outreach primarily focused on <u>Waiver regulatory requirements, and</u> irrigation and nutrient management; More recently, VCAILG has</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|--|
| | | | incorporated more with little or new focus on erosion control, sediment retention or runoff treatment. <u>However, given the continued water quality benchmark exceedances observed, additional focus on these topics is necessary. Language in the 2016/2021 Waiver may have inadvertently impeded wider focus on these topics."</u> |
| 2d.46 | VCAILG | <p>The Staff Report includes a discussion regarding farm size in Ventura County and summarizes the number of farms in each size category in Table 26. While the data used to perform this analysis was provided by VCAILG, the methodology and conclusions were established by Los Angeles Water Board staff. As such, the analysis provided in Table 26 should not be attributed to VCAILG. Furthermore, the analysis provided does not accurately portray farm sizes in Ventura County, including an erroneous claim that there are over twenty 1,000+ acre farms in Ventura County.</p> <p>Ultimately, while these data may be interesting, they do not provide the Los Angeles Water Board with any significant information about the economic impact of the Tentative Order. There are very diverse ownership situations and farm size should not be interpreted as an indication of financial health of the farmer. Accordingly,</p> | <p>The analysis in the Staff Report has been revised to categorize farm sizes by irrigated acreage rather than assessed acreage. The formatting of the Staff Report cites data sources in table and figure headings.</p> <p>See response to comment 2d.47.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|--|
| | | we recommend that this discussion be removed from the Staff Report as it pertains to economic impact. | |
| 2d.47 | VCAILG | If Los Angeles Water Board staff choose not to remove Table 26, we request that the analysis be corrected using the methodology described in Exhibit 1 comment #11, which separates parcels by Responsibility Area and sums total irrigated acreage under a common landowner-grower combination. This approach recognizes individual farms owned by a single landowner that are geographically distinct from each other, as well as the common situation of a single landowner leasing portions of their property to growers operating individual farms. Additionally, it appropriately calculates farm size based on irrigated production acreage, rather than total assessed acreage of the parcel(s), of which only a portion of the land might be used for farming. We request Table 26 be removed or revised accordingly. | See response to comment 2d.46. The data only includes the landowner and does not include the grower that operates each parcel, which is mentioned in the Staff Report. While grower data is not available, summing acres by landowner is still useful to know because, as mentioned in the Staff Report, USDA data shows that about 92% of farms are operated by the landowner, and 70% of farm acres are operated by the landowner. Furthermore, while the operator should engage in activities that comply with the Order, the landowner is ultimately responsible. In addition, some management practices will require the landowner to install them. |
| 2d.48 | VCAILG | Clarify Sampling Frequency for Individual Monitoring Section 10.5 of the Staff Report states "According to the individual monitoring requirements in Section 2.4.1 of Appendix 3 of the Proposed General WDRs, one | The sampling frequency in Appendix 3 is correct. Section 10.5 of the Staff Report has been updated to match Section 3.3.1 in Appendix 3. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|--|---|
| | | sample shall be collected from each discharge point per year in wet weather and/or dry weather, depending on the nature of the exceedance at the Discharger Group monitoring site.” This statement contradicts Appendix 3, which requires that two samples shall be collected per year in wet weather and/or dry weather. In accordance with comment #16 on Exhibit 1, VCAILG requests that Appendix 3 be revised for consistency with the 2016/2021 Conditional Waiver and Staff Report. | |
| 2d.49 | VCAILG | <p>Correct Estimated MP Implementation Costs</p> <p>Section 10.8 cites MP cost information based on estimates from the NRCS Environmental Quality Incentives Program (EQIP) list of payment rates (NRCS, 2022). Based on conversations with Oxnard Field Office NRCS staff, many of these costs’ estimates were incorrectly calculated, sourced from national-wide averaged cost figures, or based on management practices that are not appropriate for the crop types listed in the Staff Report. For instance, irrigation tailwater recovery (NRCS Practice Code 447) is listed in the Staff Report as the irrigation management practice for non-orchard crops. Based on conversation with NRCS staff, this practice standard has not been included in the EQIP Practice Scenarios since 2012, and even then, the practice scenarios and associated costs were only developed for irrigated pasture and nursery operations. This practice standard is not applicable for Ventura County non-orchard crops and</p> | <p>See response to comment 2.d.21.</p> <p>NRCS Practice Code 447 is not included in the NRCS 2023 EQIP reimbursement schedule but is specifically included in the NRCS California Practice Scenarios – Fiscal Year 2023 document (NRCS, 2023). https://www.nrcs.usda.gov/sites/default/files/2022-11/California-Scenarios-23-payment-rates.pdf)</p> <p>NRCS Practice Code 447 was included in previous additions of the NRCS EQIP reimbursement schedule, therefore the cost calculations are included for general comparisons.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | <p>should neither be referenced as an expected management practice or used to estimate costs. A comprehensive tailwater recovery system that would meet agronomic and food safety requirements for Ventura County non-orchard crops would be substantially more involved than the pasture and nursery tailwater recovery practice cited. We request that the cost associated with NRCS Practice Code 447 be removed and replaced with cost calculations based on current and appropriate NRCS management practices.</p> | <p>Additionally, as discussed in a meeting between VCAILG and Los Angeles Water Board staff, tailwater recovery system projects are currently being considered in Ventura County, therefore it is appropriate to include a general cost discussion in the staff report.</p> <p>No change to staff report necessary.</p> |
| 2d.50 | VCAILG | <p>Clarify That There are Multiple Nutrient sources to the Channel Islands Harbor.</p> <p>In section 11.2 of the Staff Report, Los Angeles Water Board staff directly attribute nutrient sources to the Channel Islands Harbor onto agricultural operations. While VCAILG does not deny that agriculture is a source of nutrients to the Channel Islands Harbor, it is important that the Staff Report accurately indicate that agriculture is not the <i>only</i> source of nutrients into the Harbor. A study conducted in the Channel Islands Harbor in March of 2019⁸ did not explicitly identify land uses or industries contributing nutrients into Channel Islands Harbor. However, it did identify the increased residence time of water due to the closing of a power plant (which aerated and circulated water in the harbor) as the primary cause of algae blooms. In recommending solutions, the study suggests nutrient source controls</p> | <p>See response to comment 2.d.35.</p> <p>Furthermore, while the 2018 City of Oxnard study did not explicitly identify land uses or industries contributing nutrient, it did implicitly identify agriculture as a source: “Consider implementation of nutrient source controls (e.g. agricultural runoff) to reduce nutrient loading to CIH via Edison Canal. Since the City of Oxnard does not own Edison Canal, this approach will require the inclusion of Stakeholders from agriculture, regulatory and municipal agencies and the public.”</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--------|---|---|
| | | <p>such as engineered runoff reduction and treatment (bioswales, wetlands, and engineered treatment), decommissioning unused problem areas (Edison Canal), aeration, and source reductions. Source identification and reductions are suggested for both stormwater drains <i>and</i> agricultural runoff. Thus, efforts to mitigate harmful algae blooms should be focused on source reductions from all potential sources – not just agriculture. VCAILG requests that language in the Staff Report reflect the reality of multiple sources of nutrients in the Channel Islands Harbor and the need to implement multiple different controls.</p> <p>⁸ See City of Oxnard (2019), <i>Nutrient Sources and Sinks Study</i>, Aquatic Bioassay & Consulting Laboratories, Inc. & Aquatic EcoTechnologies, Inc.</p> | <p>Additionally, the study recommended “fertilizer application reduction; crop rotation, relocation, and change; and reduction in the amount of agricultural land uses”.</p> <p>No change to Staff Report language is needed.</p> |
| 2d.51 | VCAILG | <p>Expand background and clarify information related to sources of nitrate in local groundwater in the El Rio area of Oxnard</p> <p>In Section 11.3, the Staff Report strongly implies that agriculture was the source of nitrate exceedances in El Rio drinking water sources derived from localized groundwater. VCAILG does not deny that fertilizer applications may be a potential source of nitrogen in groundwater systems. However, further context is needed to properly characterize nitrogen sources into groundwater systems, especially in localized areas. For example, the Staff Report uses El Rio as an example of</p> | <p>See comment 2.d.36</p> <p>Clarifying language has been added to the Staff Report that nitrates in El Rio were likely caused by agricultural fertilizers and septic tanks.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|--|
| | <p>elevated nitrate in groundwater systems and implies that El Rio's problems were directly caused solely by agriculture. This implication is incorrect and needs to be revised. Specifically, a report completed in 2008⁹ uses El Rio as an example to demonstrate that agriculture is <i>potentially one of many</i> nitrate sources to groundwater systems. While this study does indicate that agriculture is a likely source of nitrate fluxes into the groundwater near growing operations, there is also extensive discussion on the potential for natural fluxes, septic systems, and legacy sources to contribute to high nitrate levels in the groundwater in El Rio. Further, this study includes reference to a 1998 study by the Los Angeles Water Board which "concluded that substantial evidence indicated that the high density of septic systems in the Forebay contributed to excessive loading of nitrogen and pathogens to the local groundwater system..." (<i>Board Resolution 99-13, Basin Plan Amendment for the Prohibition of Discharges from Septic Systems in the Oxnard Forebay</i>, Los Angeles Regional Water Quality Control Board). This same nuance should be applied in discussion of nitrate fluxes to groundwater and surface water systems as a whole and caution should be exercised when attributing nitrate pollution, whether directly or by implication, to one individual source.</p> <p>Accordingly, VCAILG asks that the language in section 11.3 of the Staff Report to be revised to properly characterize that nitrogen remaining in the rootzone</p> | |
|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------|---|---|
| | | after crop removal is a potential source of nitrate to groundwater rather than imply that it is a sole source. Further, Section 113 should be revised to reflect that other sources exist (natural sources, septic tanks, and legacy sources), and likely also contribute to the overall nitrate fluxes into waterbodies. | |
| 3.1 | VC CoLAB | Before outlining our remaining concerns with the proposed Ag Order, we want to recognize and express our appreciation to staff for incorporating significant amendments to the proposed language to address some of the concerns expressed by the Ventura County farming community and VCAILG at the April 27 Regional Water Board Workshop. These amendments include adding an alternative compliance pathway option ("Track 2") that will allow farmers to work directly with technical experts to develop implementation plans to address their specific property and operational needs and the removal of the redundant and expensive Groundwater Management Practice Evaluation Study. | Comment noted. |
| 3.2 | VC CoLAB | The proposed Ag Order expands TMDL requirements by imposing TMDL limits on agricultural lands within a given area outlined on a map rather than just those properties already subject to existing TMDLs. Waste discharge requirements must be based on crop and soil types to address the specific potential for waste discharge issues on agricultural land and not based on random or arbitrary circles on a map. The expansion of | The Tentative Order does not expand the TMDL requirements to additional agricultural lands beyond the TMDLs. See comment 2a.2 |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------|---|--|
| | | <p>TMDL requirements to properties and growers that are not subject to TMDL requirements, without hydrological studies, GIS mapping, property public noticing, and public hearing, is alarming and beyond the scope and intent of state regulations establishing TMDLs and the Ag Order. We urge the members of the Regional Board to amend the Ag Order to ensure that the TMDL limits are applied as state regulations intend.</p> | |
| 3.3 | VC CoLAB | <p>While including Track 2 (alternative compliance pathway) is a positive step forward, the language in the proposed Ag Order discourages farmers from utilizing this alternative compliance pathway in a practical or reasonable manner. Specifically, the proposed Ag Order does not explicitly grant compliance assurance to farmers who chose Track 2 to manage waste discharges. Additionally, Track 2 requires farmers to install structural or treatment best management practices – even if those best management practices are deemed unnecessary or infeasible by the technical experts. In addition, the timeline for implementing Track 2, as outlined in the proposed Ag Order, does not consider the time necessary to contract technical experts and develop and implement workable best management practices.</p> | <p>The language in Appendix 3 does explicitly state that dischargers will “be deemed in compliance with discharge limitation via Track 2 if the member is engaged in the adaptive management process”. This is necessary to ensure the Track 2 option does not create “safe harbor” by completing minimal participation in the program that does not result in attainment to water quality benchmarks.</p> <p>See comments 2b.10 and 2b.13 regarding structural MPs and timelines.</p> |
| 3.4 | VC CoLAB | <p>As we know from the fashion industry, “one-size-fits-all” is actually one-size-fits-NONE. Track 2 allows growers to address waste discharge issues with best</p> | <p>The Tentative Order was developed and revised to provide dischargers flexibility (such as providing the</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|----------|---|---|
| | | <p>management practices and implementation plans developed by technical experts specifically for their topography, property constraints, and operational activities. Ventura County farmers farm on hillsides, in the Oxnard Plain, along roadways, slopes, and valleys. Each property and farming operation is unique and will require a site-specific implementation plan that may not require (or even allow) the installation of expensive structural or treatment best management practices.</p> <p>Allowing growers the flexibility to implement best management practices to address their specific situations is the most effective way to improve water quality as a whole for the Region. But addressing the above specific concerns is necessary for many growers to utilize Track 2. We urge the members of the Regional Board to encourage staff to revise the proposed Ag Order language to provide compliance assurance for farmers who chose Track 2; and remove the blanket requirement for installation of structural or treatment best management practices.</p> | <p>alternative compliance path). While we note that structural best management practices are effective and may, in some cases, be necessary, there is no “blanket” requirement to install structural BMPs. Each farming operation will be able to develop a site-specific implementation plan and demonstrate its effectiveness via Track 1 (individual monitoring) or implement track 2 (site-specific management practices plan).</p> <p>See comment 2.b.13</p> |
| 3.5 | VC CoLAB | <p>Thank you for the opportunity to submit these comments. We support the comments submitted by VCAILG and urge the Board and staff to continue to work with VCAILG and local growers to ensure the adoption of a feasible, effective Ag Order.</p> | <p>See comments 2a.1-2d.-2d.51 for responses to VCAILG’s comments.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|---------------------------|--|--|
| 4.1 | Ventura County Ag. Assoc. | Suffice it to say, we are very gratified by many of the positive changes we have observed in the program, but still believe that there are many more changes that need to be implemented in order to successfully get the complete buy-in of the local agricultural industry, | Comment noted. |
| 4.2 | Ventura County Ag. Assoc. | I have attached hereto a copy of the comment letter of VCAILG dated April 18, 2023. Suffice it to say that our Association, including it's over 300 agricultural members, fully support the comments in the above letter, it's exhibits, and attached reports that are fully set forth therein. | <p>The comment references an April 18, 2023 VCAILG letter, but the attached letter is dated August 18, 2023.</p> <p>See comments 2a.1-2d.51 for specific responses to the August 18, 2023 VCAILG letter.</p> |
| 4.3 | Ventura County Ag. Assoc. | The Ventura County Agricultural Association respectfully requests the Regional Water Board gives serious consideration to the proposed comments and changes indicated in the VCAILG comment letter and we look forward to working with the Regional Board in finalizing a workable Ag Order to the benefit of all parties concerned. | All comments received during the public comment period and hearing are considered in the course of an order adoption. |
| 5.1 | Ca Avocado Comm. | The California Avocado Commission submits this letter in support of the concerns expressed by the Ventura County Agricultural Irrigated Lands Group (VCAILG) to the Regional Water Quality Control Board staff regarding the July 18 Tentative Waste Discharge Requirements, commonly referred to as the "Ag Order". | See comment 4.3 |
| 5.2 | Ca Avocado Comm. | Also, from an economic standpoint, the benefit of avocados to the region affected by the proposed "Ag Order" is enormous. Ninety percent of the total United | Economics and natural conditions were considered in the process of developing the Tentative Order and |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----------------------------|--|---|
| | | <p>States avocado production comes from California, with the largest production occurring in Ventura County where more than forty percent is grown. With statewide farmgate value of \$400 million and an economic multiplier several times beyond that as avocados work their way through the supply chain, every avocado producing county benefits, as does the economy of California.</p> <p>While respectfully requesting that the Board fully consider the foregoing, the Commission also respectfully reminds the Board of the many variables associated with farming. Flexibility is essential to accommodate Mother Nature, market demands, and many more uncertainties associated with maintaining the economic viability of farms and farmers.</p> | <p>the Tentative Order incorporates flexibility for farmers. See response to comment 3.5.</p> |
| 5.3 | Ca Avocado Comm. | <p>We support the comments submitted by VCAILG and urge the Board and staff to continue to work with VCAILG and local growers to ensure the adoption of a feasible, effective "Ag Order".</p> | <p>See comment 4.2</p> |
| 6.1 | California Strawberry Comm. | <p>We also join the comments of Farm Bureau of Ventura County (FBVC) and the Ventura County Agricultural Irrigated Lands Group (VCAILG).</p> | <p>See comment 4.3</p> |
| 6.2 | California Strawberry Comm. | <p>The Tentative Order includes new requirements that will increase regulatory burdens and costs for strawberry farmers. Because strawberry farms are often small acreage farms (average of 50 acres) owned or operated by first generation farmers, these increased costs and regulatory burdens can be significant.</p> | <p>See comments 2a.1 through 2d.51 for responses to VCAILG's specific comments.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|--|---|
| | | <p>A clear and functional “Track 2” will be important for strawberry farmers. We join the specific comments of VCAILG regarding refinement to Track 2 and ask that you accept these proposed changes to:</p> <ul style="list-style-type: none">•Streamline compliance options for strawberry farmers•Provide more realistic time frames to implement best management practices, particularly structural practices. Given the small farm size for strawberries, the timeline will need to be sufficient to enable smaller farmers to coordinate with neighbors on projects.•Remove technical certification requirements that are unduly burdensome for small farms with minimal risk of contributing to water quality problems.•Provide clear communication of all requirements•Ensure farmers understand that by proceeding to perform the requirements under “Track2” they will achieve regulatory compliance. If this is not clear, there will not be sufficient incentive for strawberry farmers to undertake the significant regulatory costs, which can lead to non-compliance or the decision not to farm. | |
| 7.1 | Numeric Solutions | <p>Misrepresentation of Conditions at the V02D_SPM site (Section 6.1.2.3 Ventura River Watershed)</p> <p>In the Review of Conditional Waiver Order No. R4-2016-0143/R4-2021-0045-A02 and Recommendations for</p> | <p>The Los Angeles Water Board will clarify the sections through the addressing the comments received in this letter. The Los Angeles Water</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|--|---|
| | | <p>Waste Discharge Requirements (Staff Report), LARWQCB staff (Staff) report that the V02D_SPM site has had 4 nitrate exceedances in 10 sample events since 2017 and that 40% of the nitrate samples from this site were in exceedance (Staff Report, pg. 18). Table 6 supposedly summarizes these data and nitrate values for V02D_SPM are shown in Figure 9. Each of these misrepresent facts and none of these are supported by the reported data.</p> | <p>Board has made appropriate changes to the General Order, Appendices, and Staff Report where necessary.</p> <p>Table 6 includes an analysis of the data submitted by VCAILG, and as those data were submitted at the time the Staff Report was completed. Following the release of the Tentative Draft Order and accompanying documents for public comment on July 18, 2023, VCAILG resubmitted revised data for the V02D_SPM site.</p> |
| 7.2 | Numeric Solutions | <p>As has been reported in VCAILG Annual Monitoring Reports (AMRs), V02D_SPM has been observed during 11 wet season events and 11 dry season events between January 2017 and May of 2022. Of the wet season events, this location was dry for one event (approximately 9% of wet season events), had reported exceedance for 3 events (3/11 or approximately 27% of wet season events), and shown values less than the benchmark value for 7 events (7/11 or approximately 64% of wet season events). We note here that an observation of a dry drainage clearly indicates that no discharge is occurring and there is no impairment to waters of the State. As such, sample sites that are reported as dry must be recorded as null (i.e., a value of</p> | <p>Samples that were not collected due to no flow or insufficient flow conditions, as defined by the approved VCAILG Monitoring and Reporting Plan, are not included in Section 6 of the Staff Report. Therefore, the one event where VCAILG was unable to sample due to no flow or insufficient flow was not added to the total sample number in Table 6 of the Staff Report. The total sample number (the total times water samples were taken) was 10. There was no misrepresentation, the</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|---|---|
| | | zero) since no mass was observed being discharged from the sample location. Thus, the Staff narrative claiming that 40% of the samples are in exceedance is not factual. Furthermore, Table 6 misrepresents percentages of wet weather sample events since it suggests there were only 10 not 11 sample events. | table heading is "Total Sample Number", not "Total Sample Events". No change has been made. |
| 7.3 | Numeric Solutions | <p>At least two of the aforementioned three wet season exceedances must be reconsidered in accordance with the QAPP prepared by VCAILG and signed by both VCAILG and LARWQCB Staff. The 2021 Annual Monitoring Report Revised TMDL Load Allocations and Monitoring Results submitted by VCAILG on August 7, 2023 clarifies the results of two wet weather events, Event 47 (December 2020) and Event 48 (January 2021), two sampling events which are portrayed as exceedances in the Staff Report.</p> <p>VCAILG states in their revised AMR, "we cannot evaluate whether the conditions during event 47 constitute an agricultural discharge and thus, we cannot evaluate compliance with the wet weather load allocation for event 47" (2021 AMR Revised TMDL Load Allocations and Monitoring Results, pg. 9). We note that in addition to collecting a sample at a location that does not characterize flows that would be considered a discharge of agricultural waste to waters of the State, this field documentation associated with this event fails nearly all quality control criteria in the project QAPP including accuracy, representativeness, and</p> | The sampling events were included in the Staff Report as exceedances based on the data received from VCAILG. The data have been reconsidered based on the revised AMR submitted on August 7, 2023 and the Staff Report revised to reflect the updated data. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|---|--|
| | | <p>comparability. As such, this sample result should be rejected as it is not representative of field conditions at the intended sample point, and thus, should not be considered an exceedance. Furthermore there was no direct determination of discharge to the Ventura River¹. ¹We have also reviewed the field notes for the fourth exceedance, Event 52 from December 2021 and found that the notes again fail to document the presence or absence of a discharge to the Ventura River.</p> | |
| 7.4 | Numeric Solutions | <p>We note here that both VCAILG and LARWQCB read, signed, and approved the QAPP as well as the accuracy acceptance criteria therein. The implication is that Staff would abide by the conditions of the QAPP and accept data that falls within the acceptance criteria and reject data that falls outside of these criteria.</p> | <p>As stated in the approved 2016 VCAILG QAPP, <i>"This Quality Assurance Project Plan (QAPP) describes the quality assurance requirements for the VCAILG Monitoring Program (VCAILGMP) developed to comply with the Los Angeles Regional Board's Conditional Waiver"</i>.</p> <p>Signature of the 2016 QAPP by Los Angeles Water Board conveyed acceptance of the QAPP for the purposes of the 2016 Waiver. There was no other role for Water Board staff to abide by, implied or otherwise. It is the responsibility of VCAILG, their consultants, environmental labs and members to</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|--|---|
| | | | make sure the data submitted is accurate. |
| 7.5 | Numeric Solutions | <p>Staff also appear to have misrepresented V02D_SPM conditions in a result from 2018 in Figure 9 of the Staff Report. Wet weather samples were collected at V02D_SPM in March 2018. V02D_SPM monitoring site was dry during the first sampling event. The second sampling event yielded a nitrate-N + nitrite-N result of 9.41 mg/L, which is below the load allocation of 10 mg/L. However, the point shown on the plot for V02D_SPM at this date suggests a result of around 15 mg/L. Review of the analytical result in VCAILG's AMRs does not support this the Staff plotted value of 15 mg/L and demonstrates that Staff's plot of this data point is clearly in error. Therefore, it should be removed from Figure 9 of the Staff Report and the result should not be considered an exceedance.</p> <p>Considering the above discussion, at least three of the V02D_SPM samples in exceedance should be removed from the Figure 9 plot in the Staff Report because they either inaccurately represent reported sample results or they fail the agreed upon QAPP data acceptance criteria and thus do not fairly and accurately represent conditions at the V02D_SPM site. Table 6 of the Staff Report should be revised to reflect that V02D_SPM has had only 1 exceedance in 11 sample events amounting to only 9% of events in exceedance (2007-2022). This</p> | <p>Table 6 and Figure 9 have been amended with the revised data submitted by VCAILG.</p> <p>The data for V02D_SPM was not misrepresented.</p> <p>Any grievance with the Discharger Group should be taken up with the group and is outside the scope of the Tentative Order.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|--|---|
| | | <p>exceedance occurred in December 2021 during VCAILG Event 52. Figure 8 should be revised to reflect that site V02D_SPM has had, at most, only had one exceedance.</p> <p>Given this misrepresentation of data at the V02D_SPM site, what assurance can the Board and Staff provide that the conditions at the sites will be considered fairly and in accordance with both the quality assurance process and industry standards? What is the grievance process if a member believes or has evidence that the conditions in their responsibility area were improperly evaluated by the Group Discharger or unfairly considered by the Board?</p> | |
| 7.6 | Numeric Solutions | <p>The Staff Report, page 10, states: “Samples that were not collected in dry weather due to no flow or insufficient flow, as defined by the approved VCAILG Monitoring and Reporting Plan, are not represented for all analyzed constituents. If there is no dry-weather discharge, then attainment of benchmarks is presumed.”</p> | <p>Additional language has been added for clarification. The sentence now reads “Samples that were not collected in dry weather due to no flow or insufficient flow, as defined by the approved VCAILG Monitoring and Reporting Plan, are not represented for all analyzed constituents. If there is no dry-weather discharge, then attainment of benchmarks <u>for that sample event</u> is presumed.”</p> |
| 7.7 | Numeric Solutions | <p>We believe that if there is no discharge during the sample event, then attainment of benchmarks is met because no load is added to the impaired body of water.</p> | <p>The commentor is correct, in the circumstances of no discharge during a sample event, water quality</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|---|
| | | <p>We believe this should apply in both dry weather and wet weather, and we believe it is appropriate to include these dry events as concentrations of 0 in the result plots. In some instances, landowners and operators have made significant investments in BMPs to reduce or eliminate runoff in both seasons. Thus, the lack of flow is not a nuisance situation that hinders sampling, rather, it is progress, and represents an absence or elimination of agricultural discharge. It is biased to exclude these “dry site” events from the staff analyses.</p> | <p>benchmarks are attained, for that one event. However, to determine ongoing trends in water quality, the frequency of benchmark exceedances is examined. The data analysis in the Staff Report clearly states the focus is to evaluate the frequency of exceedances. This is consistent with the 303(d) listing approach as detailed in the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List.</p> <p>Furthermore, as per the requirements of the past waivers and the Tentative Order, when water quality objectives are exceeded, BMP implementation by landowners and/or operators is required. There are numerous BMPs available to choose from, some of which may remove pollutants from runoff, others may result in ceasing runoff. We recognize that some landowners and operators have reduced or ended discharges, however in circumstances where discharges to waters of the state occur, the data</p> |
|--|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|--|--|
| | | | <p>will be examined to determine if, when runoff occurs, water quality benchmarks are exceeded. Additionally, even in the absence of runoff to surface waters, there remains the potential for a discharge to groundwater, which is also regulated by the Tentative Order.</p> |
| 7.8 | Numeric Solutions | <p>The inclusion of instances of dry sites makes a significant difference in the evaluation of water quality trends and must be considered quantitatively since it indicates a material reduction or elimination of agricultural discharge to waters of the State. For example, V02D_SPM nitrate-N + nitrite-N results from January 2017 through December 2022 are plotted below with and without dry events. Note that Event 54 (November 9, 2022) and Event 55 (December 11, 2022), both dry events for V02D_SPM, have not yet been reported, but they are included in the below plot on the right. The plot without dry events has a linear trendline with a positive slope, suggesting increasing nitrate, but the plot with dry events has a linear trendline with a very slight negative slope, suggesting a decreasing trend or no significant trend:</p> | <p>See comment 2d.44 for discussion of trendlines.</p> <p>If you were calculating loads or developing a model of discharge concentrations or loading, you could use null data appropriately, but using lack of data by adding the value of zero repeatedly to the data analysis is inappropriate. For instance, you could go to the stream every day that it is not flowing and assert that it is a zero value day. If you used all the "zero value days" to calculate the exceedance rate it would result in a much lower exceedance rate and obscure any trend which may otherwise be evident in the data. In addition, the Staff Report cannot reflect data that has not been</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-------------------|---|---|
| | | | submitted and is not currently in the Los Angeles Water Board's possession. |
| 7.9 | Numeric Solutions | <p>The V02D_SPM data in Figure 9 of the Staff Report should look like the data presented in the above figure on the right with wet weather events including instances of dry site conditions because it fairly considers all data in accordance with project QAPP and reasonably represents conditions at the subject site. Furthermore, the text above Figure 9 in the Staff Report (page 18) should be amended as follows (red text indicates additions):</p> <p>"In wet weather (Figure 9), all samples collected at both VRT_SANTO and VRT_THACH were below the water quality benchmark with relatively stagnant trendlines. Samples All representative samples collected at V02D_SPM, show an increasing trend in nitrate concentrations. with the exception of one sample, were below the water quality benchmark. The trendline describing all representative samples from this site suggests that there was no noticeable increase in nitrate</p> | <p>See comments 7.3 and 7.5 for discussion of Staff Report analyses. Figure 9 has been updated to reflect the revised data submitted by VCAILG on August 9, 2023, but no non-samples have been added to the figure.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|---|
| | | <p>concentrations from January 2017- December 2022.”</p> <div> </div> | |
| 7.10 | Numeric Solutions | <p>Staff Underestimate MRP Preparation Costs (Section 10.4) and Staff Underestimate Monitoring Costs (Section 10.5)</p> <p>In this section, Staff has prepared a financial estimate to develop and implement an Individual Monitoring and Reporting Plan in accordance with Appendix 3 at a site where a TMDL compliance deadline has passed. It appears that Staff prepared this estimate under the assumption that the responsible entity was originally part of a Discharger Group, has had a TMDL exceedance, and has chosen to follow Track 1 under Section 3.1 of Appendix 3 of the Order. Our opinion, based on direct experience, is that Staff has grossly underestimated the costs to comply with this track. We also observe that Staff’s work elements would not even satisfy the QAPP requirements for the projects. Our opinions are based on the following facts:</p> | <p>Costs were estimated using the most relevant publicly available data and represent approximate averages as further discussed, below.</p> <p>While many factors can increase or decrease MRP preparation or monitoring costs, the Staff Report provides estimates with thorough discussion sufficient to inform decision makers and stakeholders.</p> |
| 7.11 | Numeric Solutions | <p>Plan preparation costs underestimate actual costs (Section 10.4). We have already prepared such a plan</p> | <p>See response to comment 7.10.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|--|
| | | <p>under a previous order and our costs exceeded those quoted by Staff by nearly 20%. Notably, Staff's basis for labor costs are several years old and underestimate market labor rates by nearly 20%. We also observe that environmental scientists paid at the rate quoted by Staff, \$64.87 per hour, would not have sufficient experience or expertise to complete a complex monitoring plan that would meet the LARWQCB requirements for an Individual MRP.</p> | |
| 7.12 | Numeric Solutions | <p>Staff's estimate of MRP plan preparation costs do not include the effort required to prepare an adequate QAPP (Section 10.4). Staff's estimate of costs to prepare an MRP (Section 10.4 page 97) do not include the effort that is required to prepare an adequate Quality Assurance Project Plan (QAPP). Our experience with the preparation of an adequate QAPP that follows the LARWQCB template costs nearly as much as the MRP to prepare due to the need to incorporate laboratory input and incorporate other required quality control elements such as instrument ranges and calibration methods, detection limits, precision and accuracy acceptance criteria for multiple analytes, and detailed field quality control procedures. Although Appendix 3 requires a QAPP section in the MRP, rather than an entirely separate plan, this QAPP section of the Individual MRP must still address all of the same elements of a full plan and incorporate the data quality objectives of representativeness, comparability,</p> | <p>The Los Angeles Water Board has added language to the Staff Report that incorporates costs of preparing a QAPP. While in some cases it can take the same amount of time to prepare a QAPP as an MRP, in most cases it will be less, as a QAPP template is provided on the SWAMP website at https://www.waterboards.ca.gov/water_issues/programs/swamp/quality_assurance.html.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|--|
| | | accuracy, precision, recovery, reporting limits, and completeness (Appendix 3, page 12). | |
| 7.13 | Numeric Solutions | <p>Staff's estimate of sample analytical costs does not include any of the required quality control sample elements (Section 10.5). Staff claims that it would only require the collection of four samples per year to meet the project objectives; however, such an approach would fail to meet the quality control requirements of the monitoring program and would fail to satisfy the QAPP. In addition to the initial field sample, the template program (i.e., Irrigated Lands Quality Assurance Project Plan) made available at the LARWQCB website and the current QAPP for the program clearly requires the following additional quality control samples for each event:</p> <ul style="list-style-type: none">Equipment blank sampleo Matrix spike and matrix spike duplicate sampleo Field duplicate sampleo Field blank sample; although not necessarily required by the template plan, the collection of a field blank sample is a prudent quality control measure when sampling waters that might be impacted by surface conditions (e.g., aerosolized pesticide) and is included in many environmental program sampling requirements. <p>Incorporating these required samples increases the analytical costs per event by a factor of at least four. These additional samples are required by the quality control program regardless of the analytes being</p> | <p>The commenter is correct that each sampling event can require three additional samples per sampling event for quality control. However, the level of quality control required depends on the MRP and will vary with the magnitude of the MRP.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|--|
| | | evaluated at a particular site. Using the costs per sample quoted by Staff for an organochlorine pesticide sample (\$300-\$450), the actual cost per event that incorporates the LARWQCB required three quality control samples would range from \$1,200 to \$1,800 per event. On an annual basis for 4 sample events (16 samples total), the analytical costs alone will reach \$4,800 to \$7,200. | |
| 7.14 | Numeric Solutions | Staff's estimate of sample collection labor costs does not consider the time required to collect any of the required field data (Section 10.5). Staff claims the cost to collect the required samples and required field data for a single event is one man hour per sample; however, this estimate ignores the fact that the program requires the collection of field data that necessitates a two-person field team. In addition to the collection of water quality parameters required by Table 1 of the Template MRP and QAPP (temperature, pH, dissolved oxygen, and other field parameters), both documents require the collection of flow rate data which necessitates a second field person who records depth and flow velocity data while the first field person takes the appropriate measurements (we note here that the flow rate measurement equipment requires two hands to operate). The one hour estimate also does not include the labor effort required to calibrate field equipment and prepare all necessary field documentation. Even if the Staff's estimate of labor rates were accurate (\$192.65), one man hour would be insufficient to collect the four | The assumption of one person-hour per sample represents an average estimate. In some cases, it may require more than one person and/or one hour, and in other cases it may require less. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|---|
| | | <p>required samples and perform the required equipment calibration, field monitoring, and data recordation tasks. At a minimum, it requires 2-3 man hours per event (i.e. 1 to 1.5 hours for two persons per event) thus doubling or tripling the labor costs quoted by Staff. Thus, for a single sample, a grower would be responsible for \$385.30 to \$577.95 in labor costs per event. Adding this to the analytical costs of \$1,200 to \$1,800 per event (using the organochlorine example cited by Staff) yields a total of \$1,585 to nearly \$2,400 per event. On an annual basis, the total sample collection and analytical costs range from \$6,340 to over \$9,600. These costs are nearly four times greater than those estimated by Staff (\$1,975-\$2,572).</p> | |
| 7.15 | Numeric Solutions | <p>We note that if an entity instead chose to enroll as an individual in the Irrigated Lands Program under Appendix 1 rather than participate as a member of the Discharge Group under Appendix 3 of the Order, the costs would be prohibitive. Rather than just the surface water MRP, monitoring and analytical costs, and reporting costs, an individual enrollee would be required to bear the cost of preparing and implementing an MRP for surface water, an associated QAPP, an annual Irrigation and Nutrient Management Plan (INMP) and Report, a Water Quality Management Plan, Annual Monitoring Reports, and a Groundwater Quality Trends Report. Assuming the cost for each of the plan documents is in the range of \$15,000 to \$20,000, the total planning cost ranges from \$90,000 to \$120,000.</p> | <p>The Los Angeles Water Board encourages growers to enroll with a Discharger Group because of the cost savings compared to enrolling as an individual.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|--|
| | | The costs to execute these would be at least this much, making a self-implementation cost-prohibitive for nearly all operations in Ventura County. These estimates do not consider any additional costs to include the development and implementation of a BMP that actually improves water quality. | |
| 7.16 | Numeric Solutions | The cost of all program elements should be considered. What is the rationale for estimating and presenting the cost of only a portion of the program when more effort and expense will actually be required? What assurance will be provided to the stakeholders that their fiscal concerns will be considered by the Board and Staff in the administration of the program? What measures will be taken by the Board and Staff to ensure that other entities which contribute to water quality degradation share in the cost burden to protect the resource? | See response to comment 7.10. The Tentative Order regulates discharges from commercial irrigated agriculture. Other entities contributing to water quality degradation are regulated by other programs and orders. Many of such entities have shared in the cost burden for much longer than the agricultural interests covered by this order. |
| 7.17 | Numeric Solutions | In the current draft WDR, receiving water body quality plays no role in determining discharge compliance. There appears to be merely assumption that the presence of a water quality exceedance in an agricultural monitoring location necessarily results in measurable water body degradation. The statement in the Staff report that “water quality is not improving” is not supported by facts for some watersheds in Ventura County. VCAILG and other entities have monitored surface water conditions on a monthly basis at multiple points in the Ventura River watershed since 2015. To | The commentor is incorrect in the statement “receiving water body quality plays no part in determining compliance”. This appears to be due to the commentor misapplying the term “receiving water body” to only the mainstems of the Ventura River, Santa Clara River and Calleguas Creek. Many of the monitoring sites, even though they are agricultural |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | <p>date, none of these results have demonstrated the presence of nitrate in the Ventura River in excess of the MCL (Ventura River Algae TMDL Annual Report³, pg. 14). Furthermore, one of the key findings of the TMDL Receiving Water Monitoring Program is that daily nutrient loads from summer monitoring events showed no relationship with algal biomass (expressed as Chlorophyll a) measured during the same event (Mutowska and Engle, 2021⁴, slide 7). Additionally, daily nitrogen loads were not well correlated to macroalgal cover (Mutowska and Engle, 2021⁴, slide 12). Instead, they found that higher winter discharge is followed by higher macroalgal cover during the summer, likely related to canopy removal during winter storms. At every monitoring site, there was a strong inverse relationship between summer canopy cover and macroalgal cover (linear regression with r-squared values of 0.8-0.9 or higher; Mutowska and Engle, 2021⁴, slide 13). At the conclusion of their 2021 presentation⁴, Mutowska and Engle concluded that relationships between nutrient concentrations and algae are weak, and winter discharge (total discharge and peak daily flows) explains canopy cover and macroalgal cover in summer (slide 22).</p> | <p>drains, are themselves receiving waters.</p> <p>As stated in the Staff Report, these sites were chosen as they mostly (and in many cases fully) represent discharges caused by agricultural operations. This allows for more identifiable and quantifiable determination of discharges from irrigated agricultural lands rather than other sources of waste discharges which may discharge some of the same constituents (e.g., municipal stormwater). The TMDL Receiving Water Monitoring Program sites were chosen for receiving water quality throughout the river and were not specifically selected to identify agricultural contributions to water quality.</p> <p>The relationship between macroalgal cover and nitrogen is not at issue.</p> <p>While, the Ventura River has had better nitrate water quality than the other watersheds in Ventura County, the Ventura River data do not show</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|--|
| | | | <p>an improving trend. The statement “water quality is not improving” is supported by the facts.</p> <p>See comment 2d.43 for discussion.</p> <p>No change has been made.</p> |
| 7.18 | Numeric Solutions | Single point in time samples from many of the selected sites do not necessarily reflect whether that discharge causes or contributes to an exceedance of applicable water quality objectives in the receiving water body. In fact, many of the inland sampling locations are dry a majority of the time and only discharge to a receiving water body during moderate to large wet weather events. | <p>See comment 7.17 above regarding commentor’s misapplication of the term “receiving waters”.</p> <p>Single point in time samples, or grab samples, are utilized to capture a “snapshot” of conditions at a site at a particular moment. This is the most common type of sample taken for water quality assessment due to its simplicity and relatively low cost.</p> <p>There are other sampling methods that could be employed for a more robust data set (such as automated samplers). A discharger subject to the Tentative Order has the option to choose Track 1 and propose more extensive sampling than the</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|---|
| | | | <p>minimum required as specified in Appendix 3.</p> <p>The “snapshots” collected through the Irrigated Lands Program (through time and across the region) are analyzed as a data set to determine water quality status and whether water quality benchmarks are exceeded.</p> <p>Waste discharge requirements are required to be met during all weather conditions. Most of the water quality benchmarks in the region do not differentiate between dry and wet weather. While it is admirable that discharges to surface waters are more often being controlled in dry events, discharges are required to be controlled in all conditions and must also be protective of groundwater.</p> |
| 7.19 | Numeric Solutions | In the case of an exceedance of a contaminant of concern (COC) at a group discharge monitoring location or an individual Monitoring and Reporting Program (MRP) monitoring location, we believe that it is important to identify whether or not the receiving water body and the discharge are simultaneously impaired. | The comment incorrectly characterizes the group discharge monitoring sites as not being receiving waters. As discussed in comments 2b.2 and 7.17 many of the group discharger monitoring |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|--|
| | | This could be accomplished by collecting same-event in-receiving body samples located downstream of the individual MRP or group discharge monitoring point. If there is no receiving water quality issue for the constituents sampled at the downstream compliance point, then the discharge at that compliance point should be considered either in compliance for that sampling event or compliant pending the review of implemented BMPs. | locations are receiving waters. The commenter appears to only be applying the phrase receiving waters to the main stems of the larger regional waterbodies. In general, water quality benchmarks may apply to the group discharge monitoring locations, mainstems, tributaries and other waters of the state. |
| 7.20 | Numeric Solutions | Groundwater Trend Monitoring (Section 1.2.2) Groundwater conditions across Ventura County vary dramatically. This expansive requirement is beyond the scope and expertise of the Discharger Group. It also represents a tremendous cost to the Members whose actions generally affect only the shallowest water-bearing zone which may or may not constitute a regional aquifer. | Groundwater Trend Monitoring is a required component of irrigated lands regulatory programs statewide, per State Water Board Order WQ 2018-0002. (ESJ Order, p. 65). It is not at the discretion of the Los Angeles Water Board to eliminate this requirement. Furthermore, VCAILG has already been reporting groundwater trends as part of the 2016/2021 Waiver. See response to comment 1.4. |
| 7.21 | Numeric Solutions | Other agencies are already performing regional groundwater monitoring and are better suited to perform this task. In addition, the Cities, dozens of small mutual water districts, Calleguas Water District, Casitas Water | See response to comment 1.4 |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|--|
| | | District, the United Water Conservation District and the Ventura County Water Resources Division Groundwater Section collect groundwater samples, which includes nitrate, from hundreds of wells throughout Ventura County, and also conduct regular monitoring in accordance with local, State, and Federal Division of Drinking Water standards. | |
| 7.22 | Numeric Solutions | What is the rationale for making only irrigators pay for the redundant monitoring and reporting effort in deeper aquifers specified in the Order? What is the rationale for making only irrigators fund this redundant effort in the shallowest water-bearing zone when multiple other anthropogenic activities not related to fertilization and irrigation (such as control animal facilities, septic discharge, and uncontrolled occupation of undeveloped land by homeless individuals) contribute to water quality degradation? | <p>Groundwater monitoring is a mandatory requirement for irrigated lands programs statewide and an outgrowth of the widespread, and well documented fact, that groundwater basins across the state of California have been contaminated by irrigated agriculture. The potential introduction of pollutants to groundwater from other sources does not absolve irrigated agriculture from regulation.</p> <p>Nevertheless, additional language has been added to Appendix 2, Section 1.2.2 of the Tentative Order clarifying Discharger Groups may utilize data collected by other entities as part of complying with these tasks of the Tentative Order.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|--|
| | | | See also comment 1.4 |
| 7.23 | Numeric Solutions | <p>Requirement to Have a Groundwater Protection Formula (Section 1.2.3)</p> <p>Which aquifers are required to be evaluated according to a Groundwater Protection Formula? How will site-specific conditions be considered? Groundwater conditions across Ventura County are diverse, and much of the agricultural activity occurs in areas that have multiple aquifers, and widely varying soil types, slope factors, permeability differences, nutrient absorption capacity, and other site-specific characteristics that make a single protection formula inappropriate.</p> | <p>As described in Appendix 3 (and also noted further in this comment), the currently identified high priority areas are Fillmore Basin, Upper Ventura River Basin, Ojai Valley Basin, Oxnard Basin, Arroyo Santa Rosa Valley Basin, and Tierra Rejada Basin and will each be subject to a groundwater protection formula, value and target.</p> <p>As stated in Appendix 3, “the formula will be used to develop a groundwater protection value that is a reflection of “total applied nitrogen, total removed nitrogen, recharge conditions and other relevant and scientifically supported variables”.</p> <p>The formula, target and value are specific to each high priority basin.</p> |
| 7.24 | Numeric Solutions | <p>This type of program development is highly technical and complex. Such a task is beyond the scope and expertise of the Discharger Group whose members’</p> | <p>The Discharger Groups were originally formed in part to aid in completing tasks and/or hiring</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|--|
| | | <p>primary task is to grow food, not perform regional groundwater studies.</p> <p>Ventura County has many other aquifers with varying climatic and geologic characteristics. Will these other aquifers require evaluation? Or will only High Priority Areas require evaluation?</p> | <p>experts to complete the tasks that growers either couldn't or chose not to complete themselves (as would be required through individual enrollment in the waiver program).</p> <p>As stated in Appendix 3, "high priority areas will be re-evaluated every 3 years based on the results of the Groundwater Quality Monitoring Trend Report".</p> |
| 7.25 | Numeric Solutions | <p>Irrigation and Nutrient Management Plans and Reports (Sections 1.4.1 and 1.4.2)</p> <p>This process does not consider site-specific conditions or natural conditions that might result in additional contribution of nitrate to soil (weathering, contribution from organic rich soils, historic land use, impact of fire, etc.). As written in the Order, the INMR requires reporting of total Nitrogen applied and total Nitrogen removed. There is no mention or consideration of additional sources of nitrogen in soil which can contribute to elevated concentrations. There should be consideration of site-specific conditions which could contribute to elevated concentrations in soils in stormwater. These include but are not limited to weathering, contribution from organic rich soils, impact of fire, past land use, etc. Will the RWQCB take these additional contributing factors into account in the INMR</p> | <p>Regardless of the source of nitrate to soils on agricultural lands, the grower and/or owner is responsible for ensuring discharges of that nitrate does not migrate off the irrigated lands in amounts that cause or contribute to an exceedance of water quality benchmarks or impair beneficial uses.</p> <p>Although the comment states, "There is no mention or consideration of additional site-specific conditions that could contribute to elevated concentrations in soils in stormwater", as discussed in public workshops and the staff report, the INMR is a statewide</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | <p>data evaluation process? How can members be assured that the site-specific conditions will be fairly evaluated in the INMR data evaluation process?</p> | <p>requirement for irrigated lands programs. State Water Board Order WQ 2018-0002 defines nitrogen applied as including “all nitrogen proactively added to a field from any source such as organic amendments, synthetic fertilizers, manure, and irrigation water.” (ESJ Order, p. 38.) Order WQ 2018-0002 defines nitrogen removed as “the nitrogen present in all harvested materials removed from the field (including any prunings, removed vegetation, etc.) plus, in the case of perennial crops, the nitrogen sequestered in the permanent wood.” As required by State Water Board Order WQ 2018-0002, the INMR is focused on the nitrogen applied on a farm, the nitrogen removed, and the ratio between those two factors (and by extension the amount of added nitrogen left in the soil which may migrate into groundwater). In adopting this INMR approach, the State Water Board sought to develop a set of consistently derived data across regions that would inform scientific</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|---|
| | | | <p>analyses and other developments in the regulation of discharges from irrigated lands. While site-specific conditions may also contribute to concentrations of nitrate in groundwater, those conditions are inconsistent with WQ Order 2018-00002 and are not appropriately included in the INMR evaluation process at this time.</p> <p>As a point of clarification, the data evaluation for the INMR is a Discharger Group task. If the commenter is concerned about being evaluated fairly by the Discharger Group, the commenter is encouraged to work with the Discharger Group to resolve concerns or enroll in the Irrigated Agriculture Program as an individual.</p> |
| 7.26 | Numeric Solutions | <p>Individual Discharge Limitation Reporting and Required Notice (Section 3.2)</p> <p>Section 3.2, page 21 of Appendix 3, indicates an exceedance is considered documented when the</p> | See comment 2.b.8 |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|--|
| | | <p>laboratory analysis is received by the Discharger Group. Considering a single laboratory result without context is antithetical to the LARWQCB's requirement to have and implement a QAPP. The purpose of the quality assurance process is to gather the information necessary to validate each sample result and qualify those that have either field or laboratory irregularities. The 30-day notification process does not provide sufficient opportunity to implement the quality control process and essentially bypasses quality assurance that is meant to ensure that only those laboratory results that satisfy these requirements are considered representative of field conditions. Sufficient time should be incorporated into the schedule to allow the members to review the results and sampling documentation and ensure all QA/QC procedures are fulfilled before determining whether a laboratory result actually qualifies as an exceedance.</p> | |
| 7.27 | Numeric Solutions | <p>It is not appropriate for an NGO to provide notice of an exceedance. Only a governmental agency with a proper enabling legislation and enforcement authority should be permitted to issue notices of exceedance. We agree that the Discharger Group should notify all members of its results, regardless of the presence or absence of an exceedance, in a timely manner; however, given that only the LARWQCB has the statutory authority to enforce water quality regulations, it is the responsibility of the Agency to notify the member (both landowner and operator) when a result constitutes</p> | <p>Citizen science and community monitoring programs are legitimate and important partners in protecting water quality. However, there is no statement in the Tentative Order directing NGOs to provide notice of exceedance.</p> <p>If, in the course of a different monitoring program, a sample is collected at a group monitoring site</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|--|
| | | <p>an exceedance of water quality regulations and thus is in regulatory jeopardy.</p> | <p>that shows exceedance of water quality benchmarks, the data may be incorporated into the record (provided an acceptable QAPP and chain of custody exist).</p> <p>Since the beginning of the Irrigated Lands Program (regionally and statewide), part of the function of the Discharger Groups was to act as intermediary between growers and the Water Boards, as requested by the growers themselves. Past feedback from growers and landowners in the region indicated, in general, the preference for information and notices to come from the Discharger Groups.</p> <p>While enforcement of water quality regulations falls to the Los Angeles Water Board, it is in keeping with the past Conditional Waivers and the Tentative Order for the Discharger Group to provide the initial notice of exceedance to the member.</p> |
|--|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|--|
| 7.28 | Numeric Solutions | <p>If a Member chooses Track 1 and edge of field sampling results fall below water quality benchmarks for two consecutive years, then it appears that they are in compliance with the Order. Why then does the Staff require additional subsequent sampling for every five years following?</p> | <p>On the ground conditions change through time for many reasons. This may include (but is not limited to): operational changes, ownership changes, technology changes. Regularly scheduled sampling is a requirement to show continued compliance with the Tentative Order and attainment of water quality benchmarks.</p> <p>This is a common element of WDR Orders and other water board permits in California. Verification of management practices, in conjunction with regular monitoring and reporting, is an essential and required component of all nonpoint source regulatory programs, such as the Tentative Order. Key Element 4 of the Nonpoint Source Policy mandates that nonpoint source control implementation programs “shall include sufficient feedback mechanisms so that the [regional water board], dischargers, and the public can determine whether the program is achieving its stated</p> |
|------|-------------------|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | purpose(s), or whether additional or different MPs or other actions are required.” (NPS Policy, p. 13) |
|------|-------------------|--|--|
| 7.29 | Numeric Solutions | <p>The Tentative Order does not describe what happens if a Member chooses Track 1 and then continuously exceeds water quality benchmarks.</p> <p>Can the Member continue to exceed the water quality benchmark without consequence so long as they continue annual monitoring? If so, how are downstream members protected from regulatory jeopardy? There is no description of timelines or consequences for this particular track, and there is no description of a pathway to compliance (i.e., implementation of more rigorous BMPs).</p> <p>Does failure to comply with benchmarks in Track 1 automatically push the Member into Track 2?</p> | <p>As discussed in the Tentative Order, if a TMDL associated Water Quality Benchmark is exceeded after a TMDL compliance date, the benchmark immediately becomes an individual discharge limit. The discharger may demonstrate compliance through Track 1 or Track 2. Track 1 would allow a discharger to complete edge of field sampling documenting no exceedance of discharge limitations from the specific property. In the case of individual monitoring documenting a site specific violation of individual discharge limits, the discharger would be subject to enforcement. The enforcement options available to the Los Angeles Water Board are outlined in the State Water Resources Control Board Water Quality Enforcement Policy (https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20ado</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>pted%20policy.pdf). These options range from informal NOV's to formal actions defined in the Water Code, including but not limited to: cease and desist orders, civil administrative liability, and clean and abatement orders. For some violations, such as knowingly falsifying a report, enforcement can include referrals for criminal penalties. The type of enforcement depends on the circumstances of the violation. In general, Los Angeles Water Board enforcement is progressive, meaning it "<i>contemplates an escalating series of actions beginning with notification of violations and compliance assistance, followed by increasingly severe consequences, culminating in a complaint for civil liabilities or other formal enforcement</i>". (Enforcement Policy, p. 2)</p> <p>However, timeline and consequence specifics in the Tentative Order are not included as they are specific to the violation.</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|--|
| | | | |
| 7.30 | Numeric Solutions | If a Member instead chooses Track 2, how is compliance achieved? Is it achieved when there are two consecutive years without exceedance at the Group Discharger monitoring site? | A Member will only be deemed in compliance with the discharge limitation via Track 2 if the Member is engaged in the adaptive management process described in Appendix 3 Section 3.4.4. |
| 7.31 | Numeric Solutions | How is the success of the Farm-Level MPP confirmed? | <p>The farm-level MPP is a compliance pathway. There are various steps in the process in which the Los Angeles Water Board can ensure compliance is being met such as:</p> <p>Compliance with plan and reporting requirements</p> <p>Inspections: Sites addressed by a farm-level MPP are subject to inspection by the Los Angeles Water Board. If inspections show that the farm-level MPP is not being implemented as approved, Members may be subject to enforcement.</p> <p>Additionally, if inspections or Discharger Group monitoring data</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|---|---|
| | | | show water quality is not improving at the group monitoring site, then an updated farm-level MPP is required. |
| 7.32 | Numeric Solutions | Finally, the V02D_SPM site is unique because it is a single ranch with a VCAILG Algae TMDL monitoring site located at the edge of field. Therefore, edge of field sampling is already carried out by VCAILG whether or not there are exceedances of load allocations at the V02D_SPM site. Therefore, it appears that this landowner's only option for compliance is to select Track 2. Why are there no other options? Are there other stakeholders in this same position? What is the grievance process if members of a Discharger Group find there have been material deviations from MRPs or QAPPs that unjustifiably put them in a compliance situation? | <p>This is a unique situation currently only applicable to this discharger. As discussed with this particular landowner and their consultant on March 14, 2022, this landowner can rely on the Discharger Group MRP and QAPP. However, they still need to submit an individual monitoring and reporting plan and QAPP stating such. The landowner has the option to choose Track 1 or Track 2 to demonstrate compliance with the Tentative Order.</p> <p>It is the responsibility of members of a Discharge Group to be active participants of the group. As individual enrollment in the Irrigated Agriculture Program is an option, members have voluntarily elected to join the Discharger Group.</p> <p>If members of a Discharger Group find material deviations from the MRP or QAPP, the first step should be to contact the Discharger Group.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--------------|-------------------|--|--|
| | | | The discharger should also notify Water Board Irrigated Lands Program staff. Per Provision XIII.2 of the Tentative Order, Discharger Groups could be terminated for cause. See also response to comment 7.5. |
| 7.33 | Numeric Solutions | On a similar note, it is unclear how past exceedances of TMDL discharge limitations under the current conditional waiver will be handled under the Order. | See comment response 2a.1. |
| 7.35 7.34 | | <p>6. Absence of Protection from Malfeasance or Malpractice (Section 3.4.2)</p> <p>Section 3.4.2 of the Order describes some basic qualifications for those that would be empowered to certify a farm-level MPP. While there are some basic education requirements, the required areas of expertise are vast and cover many different professions. Many of these do not have licensing requirements and thus are not subject to oversight by any professional organization, codes of ethics, or governing board.</p> <p>Given that the LARWQCB is requiring the public to obtain services from any individual professing to have knowledge of the required topics, how will the Board protect consumers and the public (i.e., Member choosing Track 2) from malfeasance or malpractice? What process will provide assurance that those providing these statutorily required services will do so in</p> | <p>Property owners are frequently required to engage professional services for a wide-range of permitting and authorizations (on local, state and federal levels) and projects (including but not limited to building permits/projects, well installation, grading permits). It is an owner responsibility to undertake due diligence and engage services of a reputable service provider.</p> <p>Here, as with any other project, the grievance process for an issue with provider malfeasance or malpractice, is a civil matter and outside the scope of this order.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------------|--|--|
| | | a professional and ethical manner? What is the grievance process if these individuals require solutions that damage property or lead to further exceedances? | |
| 7.35 | Numeric Solutions | Some of the Discharger Group documents submitted to the LARWQCB have been posted on the LARWQCB's website for download, but these are often several years behind and are missing appendices. These documents should be readily available to the public for download as soon as possible after they are submitted. Furthermore, all laboratory-issued reports should be included in the Discharger Group Annual Monitoring Reports for public review. These reports contain important quality control information that should be considered in the assessment of whether or not a sample is in compliance with QAPP precision and accuracy standards. | The State and regional Water Boards are in the process of modifying our websites to satisfy all Priority 1, 2, and 3 guidelines, for "AA" compliance of the World Wide Web Consortium (W3C), Web Content Accessibility Guidelines 1.0, as well as Section 508, Subpart B, Subsection 1194.22, Guidelines A-P of the Rehabilitation Act of 1973 as revised in 1998. As part of this process, the Water Boards have modified internal document creation processes to ensure that all documents created by the Water Boards that are posted to the Water Boards' internet websites on or after July 1, 2019 are reviewed and maintained to be in compliance with these, or greater, criteria. In some instances, materials that did not meet these criteria have been removed from the website. These materials are available by request. |
| 7.36 | Numeric Solutions | Public Disclosure of Site-Specific Conditions that May Affect Land Valuation | While many growers have concerns related to the public disclosure of |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|---|
| | | <p>The Order states that sample results will be confidential; however, sampling results and INMR results will be posted in GeoTracker. Additionally, all records and reports submitted to the LARWQCB are made available to the public. Unlike urban businesses whose sole value is derived from the value of goods and services they provide, the value of a farm is intrinsically tied to the quality of the land and water within it. Agricultural landowners who lease land to tenant farm operations derive their sole revenue from the perceived quality of land, water, and operating expenses associated with their property. Disclosure of sensitive, possibly unverified environmental data puts landowners at extreme risk with little or no recourse. In the event a property was sampled and the sample results indicate high levels of Nitrogen, that information is now subject to public review. In other areas of the country, it has been shown there is a statistically significant relationship between reduced coastal home values and high nitrogen levels. How does the LARWQCB plan to address decreases in land valuation resulting from high Nitrogen levels reported in its publicly available data?</p> | <p>water quality data required to be submitted under the Tentative Order, as a matter public policy and consistent with the law, this type of information is generally not confidential. In WQ Order 2018-002, the State Water Board considered the agriculture's community's desire for anonymity and ultimately concluded that is was "not persuaded that the maintenance of confidentiality, in and of itself, is a legitimate goal of a regulatory program that must have transparency and accountability to the public." (ESJ Order, p. 47.) Likewise, the Los Angeles Water Board does not agree that it is appropriate to maintain valuable information about the quality of water discharged, or the surface and ground waters receiving these discharges, a secret to protect land valuation.</p> <p>The discharge of water is a privilege not a right. (Wat. Code § 13263(g).) Notwithstanding the many benefits from agriculture to the community,</p> |
|--|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>the landowners' potential economic gain from leasing agricultural property does not grant the right to impair beneficial uses of water for others.</p> <p>Moreover, the Los Angeles Water Board disagrees that the irrigated lands regulatory program should be used to shield growers from accountability. The potential devaluing of the land due to nitrogen impairments is not tied to the monitoring done (under the General WDRs or any other monitoring process), rather it is the consequence of discharging of polluted water. Any blame for the devaluing of land should be placed on the dischargers who cause or contribute to the contamination of commonly shared natural resources rather than monitoring programs that bring these impairments into the daylight.</p> <p>Furthermore, most submittals to the Los Angeles Water Board are a matter of public record and available</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>by request. The California Legislature has expressly declared that “access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.” (Gov. Code § 7921). To that end, all state agency records are considered “public records” and subject to disclosure under the Public Records Act unless the Public Records Act or other law expressly provides otherwise. (Gov. Code § 7921.700.) Water quality data—even to the extent that it may reveal certain business practices is not exempt from disclosure. (<i>Rava Ranches v. California Water Quality Board, Central Coast Region</i> (2016); <i>Triangle Farms v. California Regional Water Quality Board, Central Coast Region</i> (2016) (Mont. Sup. Ct Nos. 16CV000255 and 16CV000257; see also State Water Board Order WQ 2013-0101 (declining to treat farm plans submitted to the Central Coast Water Board as confidential).) As such, the Tentative Order does not</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>treat the INMR data or nitrogen monitoring data as confidential and the Los Angeles Water Board declines to update the Order to make this change.</p> <p>Nevertheless, the Tentative Order includes provisions intended to balance the growers' desire for confidentiality with the need for transparency and accountability. As required by State Board Order WQ 2018-000, the Tentative Order does state that the INMR submitted by the Discharger Group will include anonymized grower-land data..</p> <p>As per the Tentative Order, only the drinking water well sampling results are specified to be submitted through GeoTracker. This is also an ESJ requirement and more importantly, a public health necessity.</p> <p>No other sampling results or Tentative Order mandated submittal (including the INMR) are required to be posted in GeoTracker.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>The sample data that are submitted to the Los Angeles Water Board either by the Discharger Group or an individual discharger are required to go through QA/QC procedures in accordance with the approved QAPP. Therefore, the data submitted to the Los Angeles Water Board are verified. There are multiple steps in the verification process. In the event a result (or set of results) raises a flag of concern, the data and analyses can be reviewed. This is demonstrated by the review of the data associated with V02D_SPM discussed in the comments.</p> <p>Finally, to the extent the comment relies on the Cape Cod Commission's 2015, <i>Water Quality and Cape Cod's Economic Future: Nitrogen Pollution's Economic Impact on Homes and Communities</i> (available at: https://ww2.capecodcommission.org/3bays/assets/three_bays_study_full_report.pdf, last accessed</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | | <p>9/12/2023) to support its comment, the Los Angeles Water Board disagrees it stands for the proposition asserted. The reference cited states: "The study found high levels of nitrogen decreased a home's value, where a 1% decline in water quality led to an average loss in home value of 0.61%, after controlling for other factors. This finding will have a notable effect on coastal areas, with potential ripple effect across the entire region's economy." It goes on to further explain that poor water quality (specifically nitrogen) leads to a devaluation of homes and effects the entire surrounding community.</p> <p>The fundamental difference between the scenario in the cited study and here, is that home values discussed in the study are being lessened due to the effect of another entity's discharges. The commentor appears to be stating the Los Angeles Water Board should help obscure awareness of a pollution problem so that the polluter is not financially</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----------------|---|---|
| | | | <p>impacted (while possibly also bringing down the equity of surrounding, non-polluting properties).</p> <p>The Tentative Order requires the implementation of management practices to improve water quality when water quality benchmark exceedances occur. Therefore, water quality improves through the implementation of the General WDRs. Based on the cited reference, the claim that the General WDRs cause a decrease in land value is incorrect, and if anything should help improve land values over the long term (as discussed in section 11.5 of the Staff Report.).</p> |
| 8.1 | Western Growers | The General Order is designed to further improve and protect water quality and our growers acutely understand the importance of maintaining our most precious resources. We support opportunities to advance accessible, affordable, and achievable pathways for growers to work towards these shared goals. At this time, we write to convey general concerns and comments regarding the proposed requirements established in the General Order. | Comment noted. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----------------|---|--|
| 8.2 | Western Growers | On page 113, the Staff Report concedes that, with the proposed general WDR updates, individual discharge limitations will be triggered several years earlier than they would have been under the 2016/2021 Waiver. Considering the significant resources and management changes that growers will need to implement for compliance, erratic revisions create considerable uncertainties and confusion with respect to grower compliance with the 2016/2021 Waiver. All past due TMDL deadlines should be revised to be the effective date of the General Order and TMDL benchmark exceedances should not be retroactively applied to TMDLs that did not have an effective compliance deadline under the Conditional Waiver. | See comment response 2a.1 |
| 8.3 | Western Growers | Further, the current notification timelines do not allow sufficient time for determining which growers are subject to the requirements. Inconsistent notification timelines are confusing and will necessitate multiple notifications each year that trigger requirements to notify the Los Angeles Water Board, but do not impact the timeline for development and implementation of the mandatory implementation plans. | <p>The current notification timelines allow for time for grower education to occur prior to having to choose Track 1 or Track 2.</p> <p>VCAILG will begin educating growers on the Track 1 or Track 2 compliance options within 30 days of receiving sample results from the lab. However, an exceedance is considered documented only one time a year, in the annual monitoring report.</p> <p>No change has been made.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----------------|---|--|
| 8.4 | Western Growers | <p>Page 116 of the Staff Report requires MPPs to be certified by Technical Service Providers such as RCD or NRCS or equivalent professional staff that have experience in the management of constituent(s) being addressed by the MPP and must be approved by the Los Angeles Water Board. It is unclear from Appendix 3 page 27 the meaning of “knowledge and experience”. An expanded list of approved professional experts or certifications in the General Order is necessary to ensure sufficient resources and expertise are available to address the wide range of MPPs that will need to be developed in Ventura County and to avoid confusion regarding which types of professional experts would be considered “equivalent” to RCD and NRCS and the possibility for the Los Angeles Water Board to not approve the plan as a result of the use of an unqualified expert. As such, anticipated fees for said professional experts must be made available to growers, to include reduced to no-cost options, as well as expected timelines for receiving a finalized MPP. Further, the requirement on page 29 of appendix 3 that, within 60 days of notification by the Los Angeles Water Board that new or modified management practices are needed, a Member shall submit a revised farm-level MPP with modified and/or upgraded management practices and revised implementation schedules, does not accommodate for potential delays in the MPP modification process, which hinges on the timeliness and resources of said third party</p> | <p>The Los Angeles Water Board will approve all farm-level Management Practice Plans, including those certified by RCD and NRCS. A farm-level MPP certified by RCD or NRCS does not guarantee approval. If the grower is uncertain of the acceptability of a third-party certifier, they can contact the Los Angeles Water Board prior to engaging the certifier for clarification.</p> <p>The Los Angeles Water Board acknowledges that timeliness and resources of third-party experts may be limited. It is for this reason technical service provider flexibility is incorporated into Appendix 3.</p> <p>RCD and NRCS offer no-cost options to growers. Additionally, some of the other third-party certifiers may offer no cost or reduced cost to growers, however the list of potential third-party certifiers is broad and extensive.</p> |
|-----|-----------------|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----------------|--|--|
| | | “professional experts”, most likely understaffed public service agencies or high cost consultants. | |
| 8.5 | Western Growers | Lastly, on page 27 of appendix 3, it is unclear why the farm-level MPP shall include structural management practices, as such practice recommendations should be at the discretion of the professional experts. | See comment response 2b.13 |
| 8.6 | Western Growers | <p>We support the recommendation in the Staff Report to include an additional, alternative compliance pathway to individual monitoring to allow growers in Ventura to select the compliance path best suited to their resources and farm-specific conditions. We are encouraged by the opportunity to ensure that growers committing resources towards the General Order requirements are incentivized, not penalized, for implementation through the Track 2 compliance path. With this in mind, further refinement of the Track 2 option is needed to make the program more sustainable for growers. Primarily, MPPs must be practical, economically feasible, and include realistic timelines that allow for all steps needed to implement the MPs. If the timelines are unachievable and requirements infeasible to implement, growers will be set up to fail. Variable enrollment periods for conservation programs offered by NRCS and the state of California do not seamlessly align with the implementation deadlines laid out in the Staff Report.</p> <p>Opportunities for flexible timelines that accommodate realistic implantation time as well as alternative</p> | <p>Regarding timelines see comment responses 2b.8, 2b.10, and 2b.11.</p> <p>Section 10 reflects a reasonable range of actual costs and risks taken on by growers. See, also, response to comments 2d.4 and 2d.5.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----------------|---|--|
| | | <p>incentives and cost-share opportunities should be made available to all growers. As described on page 88 of the Staff report, the most widely adopted MPs tend to be low-cost, low-tech and non-structural. Offering growers resources and incentives to implement more dramatic practices will facilitate adoption and reduce concern about potential yield or economic loss due to converting to new and higher-stakes practices. With this in mind, statements made in Section 10 of the Staff Report detailing cost considerations should be re-evaluated, as they are not reflective of actual costs and risks taken on by growers.</p> | |
| 8.7 | Western Growers | <p>Further, we support the comments submitted by the Ventura County Agricultural Irrigated Lands Group and the Farm Bureau of Ventura County. We greatly appreciate the opportunity to comment and look forward to our continuing dialogue regarding how we can best support our farmers to continue to be the most valuable stewards of our planet.</p> | <p>See comments 2a.1 through 2d.51 for responses to VCAILG's specific comments.</p> |
| 9.1 | NGO | <p>The Regional Board showed leadership in agricultural regulation with the incorporation of deadlines for benchmark compliance in the current Conditional Waiver. Many of these deadlines have only recently passed, and the rest will pass in the next few years. Those deadlines will not trigger fines, but instead will trigger individual monitoring to identify sources of pollution in areas where instream water quality remains impaired. Given that all of these deadlines are passing during the transition from the Conditional Waiver to the</p> | <p>Comment noted. To clarify, in both the current Conditional Waiver and the Tentative Order, individual monitoring is not merely a source identification exercise. Rather, if individual monitoring shows an exceedance of a discharge limitation, growers would be out of compliance and could in fact be subject to fines unless they are</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----|---|---|
| | | <p>Irrigated Lands WDR, this approach of individual accountability through edge-of-field monitoring has not yet been given a chance to work. For this reason, we support the inclusion of requirements within the Tentative WDR for individual monitoring of water quality impairments that persist beyond the deadline. As stated on Page 116 of the Staff Report, the “inclusion of individual monitoring in the 2016/2021 Waiver would provide additional detail and clarity as to the location and magnitude of discharges from specific agricultural operations.” We do recognize that individual monitoring, though clear in its requirements, would not be an easy compliance approach for the regulated community considering the additional monitoring and reporting work, nor would it be an easy enforcement approach for the regulators considering the volume of data that would need to be processed. Therefore, we do not necessarily oppose the method proposed in the Tentative WDR that allows for individual monitoring or alternative compliance through a group approach, provided that both compliance options have an equivalent level of individual accountability.</p> | <p>deemed in compliance through an alternative compliance pathway (e.g. Track 2 compliance in Appendix 3).</p> |
| 9.2 | NGO | <p>The Regional Board must ensure that all growers are enrolled and engaged in this Irrigated Lands WDR by clearly outlining the enforcement consequences for not enrolling, and following up by actually taking that enforcement action, when necessary.</p> | <p>Enforcement of the General WDRs is a priority of the Los Angeles Water Board. By transitioning from a Conditional Waiver of WDRs to General WDRs we will alleviate some of the administrative burden that a 5-year renewal entails and</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----|---|---|
| | | | shift those staff resources to implementation and enforcement of the WDRs. Enforcement actions will follow the Water Quality Enforcement Policy which can be found at: https://www.waterboards.ca.gov/board_decisions/adopted_orders/resolutions/2017/040417_9_final%20adopted%20policy.pdf |
| 9.3 | NGO | Compliance Track 1 in Appendix 3 of the Tentative WDR for Ventura County group growers embodies the edge-of-field monitoring approach that exists in the Conditional Waiver, which provides individual accountability and the opportunity for source identification. Unfortunately, it is not clear how water quality results will be achieved under compliance Track 2, which currently lacks the source investigation component required under the current Conditional Waiver. Under Track 2, one monitoring sample is taken to represent runoff from multiple parcels, so it is more difficult to pinpoint the actual source of any contaminants. This is a disservice to growers who are complying, and are thus assuming greater costs and responsibilities with their operations. There must be equivalent individual accountability to allow for source identification under Track 2. In the event that a grower enrolls in a Discharger Group, but does not participate as required under Track 2, a source investigation and | Discharge limitations are achieved under compliance Track 2 through the requirements in Appendix 3 Section 3.4.1 that are still intended to promote individual accountability, such as a quantitative demonstration that all the management practices currently being implemented and that will be implemented on their farm will cumulatively address the constituent(s) of concern. The assessment is required to be based on the location, size, and volume retention capacity or pollutant reduction efficiency of the management practices and must include a plan for ongoing maintenance of the management |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|---|
| | | <p>applied consequences for water quality exceedances are necessary to maintain an equivalent level of individual accountability that exists under Track 1.</p> | <p>practices to ensure continued effectiveness.</p> <p>Additionally, the farm-level Management Practice Plans (MPPs) under compliance Track 2 must be certified by professional experts as identified in Appendix 3 Section 3.4.2.</p> <p>A grower who is enrolled in a Discharger Group in Ventura County and is subject to individual discharge limitation reporting as described in Section 3 of Appendix 3, can choose either Track 1 or Track 2 for compliance. An individual discharger who is already is complying and, presumably, assuming greater costs and responsibilities can choose Track 1. In the event the grower chooses to participate in compliance Track 2 and does not participate as required then they are subject to enforcement, which ensures that the same individual accountability that exists in compliance Track 1.</p> |
|--|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----|--|--|
| | | | <p>We note that while source investigations can be useful, the source investigations conducted by the Ventura County Agriculture Irrigated Lands Group (VCAILG) have contributed limited additional knowledge on agricultural discharges. Directing resources toward MPPs and the actual projects contained therein may result in attainment of water quality benchmarks more quickly.</p> <p>Enforcement options per the Water Quality Enforcement Policy are available if a grower does not meet the requirements in Appendix 3 Section 3.2 and 3.4.</p> |
| 9.4 | NGO | WQMPs must include clear requirements and enforceable implementation deadlines, and be updated as necessary based on the Farm Evaluation Survey feedback and on evidence of water quality exceedances. Discussions that occurred during the initial three stakeholder workshops for the administrative draft of the Tentative WDR revealed that clarity and transparency are important for all involved: nongovernmental organizations, the regulated community, and the Regional Board. The Tentative WDR must, therefore, include a new table that clearly | <p>The Tentative Order already have tables that list the water quality benchmarks (Appendix 4), TMDL based water quality benchmarks (Appendix 5), and compliance deadlines (Appendix 3, Table 3). The Tentative Order also contain tables that show when MPPs are to be submitted (Appendix 3, Table 4).</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----|--|---|
| | | lists all water quality limits, who they apply to, and when they must be achieved. We request that the Regional Board identify the applicable water quality limits and whom they apply to based on an adequate analysis of both TMDL boundaries and the responsibility areas, as currently defined by Regional Board staff. Once completed, this table would be available for transparent communication with growers by either Discharger Groups or Regional Board staff. | <p>The requested analysis is already included in the Staff Report, Sections 13.1 and 13.2, and TMDL documents posted on the Los Angeles Water Board website (https://www.waterboards.ca.gov/losangeles/water_issues/programs/tmdl/).</p> <p>All TMDLs and their boundaries are available on the website. All responsibility areas are available in VCAILG's Monitoring and Reporting Plan.</p> |
| 9.5 | NGO | WQMP implementation deadlines will also provide clarity for all involved. For existing Discharger Groups, updated WQMPs are due on December 15, 2024, but there are no clear deadlines associated with the implementation of these plans. While planning documents are important tools that must be updated to allow for adaptive management, timely implementation of these plans is the key step necessary to achieving actual water quality improvements. We therefore request that the Regional Board incorporate deadlines for WQMP implementation. | <p>The Water Quality Management Plans (WQMPs) must provide a time-certain schedule that is as short as possible, but in no case less than 10 years, for implementation of additional or upgraded management practices to ultimately attain water quality benchmarks, unless a deadline has already been specified in a TMDL. This requirement is in Appendix 2 Section 2.2.c. and Appendix 3 Section 2.2.d.</p> <p>Once a TMDL compliance deadline has passed, growers are either</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----|---|--|
| | | | <p>required to demonstrate compliance through individual monitoring (Los Angeles County; Ventura County, Track 1) or through MMP plans, which set farm-level deadlines for management practice implementation (Ventura County, Track 2). Additional implementation deadlines in the WQMP are therefore unnecessary.</p> <p>No change has been made.</p> |
| 9.6 | NGO | <p>We suggest that the Regional Board also prescribe specific Minimum Control Measures (MCMs) that all growers must implement to reduce their pollutant exposure to stormwater. Documented proof of MCM implementation must be submitted to the Regional Board (e.g., photographic evidence). MCM requirements are an enforceable piece of NPDES Permits and WDRs, and a similar approach should apply here. The Tentative WDR already prescribes specific management practices on Page 19 of Appendix 3, but only if and where exceedances for water quality benchmarks have already been identified. We request that these specific management practices be presented instead as MCMs that all growers must implement by specified deadlines. In this way, individual growers can get ahead of exceedances through the implementation of some basic best management practices (BMPs) before water quality</p> | <p>In some instances, minimum control measures are incorporated into NPDES permits as authorized or required by the Clean Water Act or it's implementing regulations (See e.g. 40 CFR section 122.26(d)(2)(iv) establishing the minimum requirements for municipal stormwater programs.) However, Water Code section 13360 prohibits the Los Angeles Water Board from specifying the manner of compliance with its regulations.</p> <p>Page 19 of Appendix 3 therefore states the type of management practices that would be effective for</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-----|-----|--|--|
| | | degradation occurs, rather than waiting until exceedances happen to trigger further monitoring or implementation of more complex, and potentially more expensive, BMPs. | <p>the constituents of concern but does not specify which of those management practices must be implemented. The specific type of management practice that will be most effective is dependent on the farm.</p> <p>No change has been made to incorporate minimum control measures.</p> <p>Regarding deadlines see comment response 9.5.</p> |
| 9.7 | NGO | Further, WQMPs must prescribe additional BMPs in the event of water quality exceedances persisting after MCMs have been implemented. | <p>The Tentative Order already require WQMPs to require additional or updated management practices; see Appendix 2 and 3 Section 2.2.</p> <p>No change has been made.</p> |
| 9.8 | NGO | We are pleased to see requirements for an outreach plan as part of the WQMP, including regular communication and education opportunities. Existing Discharger Groups have worked with growers for many years, but for transparency and for any new Discharger Group that may apply, we request clarifying language be added to Section 2.3 on Page 21 of Appendix 3 to | <p>VCAILG and LAILG currently conduct various forms of outreach in different languages, such as mailings and education events.</p> <p>Section 2.3 of Appendix 3, has been clarified to specify that outreach</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|--|---|
| | | require that outreach is culturally relevant and offered in appropriate languages. | should occur in culturally relevant and appropriate languages. |
| 9.9 | NGO | <p>We are also encouraged to see that the Tentative WDR requires dischargers to develop WQMPs founded on water quality monitoring results and surveys of individual growers. Growers actively participating in this program, who are doing the actual groundwork of remediation, have the evidence to show the efficacy of various BMPs. Therefore, the surveys of individual growers to identify appropriate BMPs is a critical step to be able to share that information with other growers and achieve widespread implementation of effective remediation. The Tentative WDR specifies requirements for the development and approval of this survey, but once again does not specify a timeline for implementation. Page 32 of Appendix 3 states that the Discharger Group “shall make the Farm Evaluation Survey template available to its members according to the schedule in Section 2 of these monitoring and reporting requirements...” but Section 2 does not outline a clear schedule, as implied. To ensure that survey results can be properly analyzed and incorporated into the WQMP, we request that the Tentative WDR include a clear schedule for development, approval, implementation, and analysis of the Farm Evaluation Survey.</p> | <p>Evaluation of the Farm Evaluation Survey is a requirement of the WQMP. The WQMP is required to be submitted every three years. This was carried over from the 2016/2021 Waiver.</p> <p>The Farm Evaluation Survey template is required to be submitted by the Discharger Groups for Executive Officer Approval 120 days after adoption of the General WDRs. The first WQMP is due December 15, 2024 and will analyze the Farm Evaluation Surveys completed by its members.</p> <p>No change has been made.</p> |
| 9.10 | NGO | <p>Finally, we also request that WQMPs be updated each reporting year if any annual reports from the previous year show exceedances. This will ensure adequate</p> | <p>The requirement on page 25 referenced in this comment is in the General Order Section X.A.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|---|
| | | <p>adaptive management to prevent exceedances. This requirement is clearly stated on Page 25 of the Tentative WDR: “The WQMP shall be revised every year, if water quality benchmarks are not attained, based on ongoing monitoring data collected under the MRP.” For clarity and transparency, that same language should be added throughout the Tentative WDR and all applicable Appendices. One example of where this language should be added is on Page 21 of Appendix 3 (with proposed additional language in red underline): “Submit first WQMP: December 15, 2024, and every year thereafter if water quality benchmarks are not attained based on ongoing monitoring data collected under the MRP.”</p> | <p>“Provisions for Individual Dischargers,” Finding 4. This language has been updated to conform with the schedule in Appendix 1 “Monitoring and Reporting Requirements for Individual Dischargers”. Finding 4 now states “The WQMP shall be revised every year, if water quality benchmarks are not attained, based on ongoing monitoring data collected under the MRP.”</p> <p>Individual Dischargers and Discharger groups are subject to different requirements and language in Appendices 1, 2 and 3 varies depending on the differences between the different discharger categories. Therefore, the WQMPs do not need to be updated annually for all discharger categories.</p> <p>While Annual Monitoring Reports are submitted every year to present a clear and in-depth examination of the most recent data, WQMPs synthesize the data in a broader way and show an overview of the data.</p> |
|--|--|---|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|---|---|
| | | | <p>Furthermore, the WQMPs are subject to a public review prior to Executive Officer approval. An annual WQMP submittal when it is not necessary will create an additional administrative task that will take away from implementation of the General WDRs.</p> <p>No additional changes have been made.</p> |
| 9.11 | NGO | <p>2. The Tentative WDR must ensure an equivalent level of accountability between the individual MRP and the Farm Level MPP under the Track 2 alternative compliance pathway.</p> <p>While we believe this dual track system is generally appropriate, Compliance Track 2 in particular lacks the degree of accountability required to ensure that individual growers comply with measures to reduce the pollutants in their discharges. Track 2 involves development of a farm-level MPP that requires the implementation of BMPs if WQMPs do not achieve TDML limits before the TMDL deadlines specified in Table 2 of the Tentative WDR. We are disappointed that many MPPs will not even be due for submission for another three years (December 31, 2026), though we</p> | <p>Compliance Track 2 provides a sufficient level of accountability because, in contrast to the WQMPs these plans evaluate management practice implementation at an individual farm level. As stated in the Tentative Order, MPP implementation is subject to inspection by Los Angeles Water Board Staff in order to ensure growers are complying with the specified measures. In addition, any grower who chooses to pursue the alternative compliance path but does not complete the requirements will be subject to the Track 1 requirements.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|---|--|
| | | <p>recognize the extensive workload associated with reviewing over 3500 plans.</p> <p>We urge the Regional Board to expedite the submission and approval process to the extent possible. The Regional Board also should add language to the Tentative WDR to clarify what action the Board will take if an Individual MRP or Farm-level MPP is not submitted by a landowner or operator, and a schedule for board approval once an MRP or MPP is submitted. These additions will help to ensure plans are submitted in a timely manner and that the Board maintains a sufficient degree of oversight to ensure implementation is not delayed. The Regional Board should consider resource and personnel needs to ensure that the approval schedule is maintained.</p> | <p>As enforcement is a necessary component of the permit, the Los Angeles Water Board considered resource and personnel needs when developing the schedule for MPP submission. The MPP submission schedule is a realistic expectation for plan submittal, taking into account Los Angeles Water Board staff resources as well as certification personnel availability and workloads.</p> <p>The schedule also takes into account the fact that not all TMDL compliance dates are yet passed.</p> <p>No change has been made based on this comment.</p> |
| 9.12 | NGO | <p>Similar to the WQMPs, enforceable implementation deadlines in the MPPs are necessary to ensure actual water quality improvements occur in a timely manner. Page 35 of Appendix 3 states that the “MPP must be fully implemented within three months to one year of approval by the Executive Officer, according to the schedule in section 3.4.3.” However, Section 3.4.3. also allows for longer timelines if requested, subject to executive officer approval. This option to extend deadlines must incorporate accountability. The Regional</p> | <p>Accountability is built into the process by requiring Executive Officer approval for a timeline longer than the standard periods stated in Appendix 3.</p> <p>The Los Angeles Water Board staff update the Board Members on program progress on a regular basis and will include status of MPPs.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|---|---|
| | | Board should outline requirements that must be met for a longer timeline request to be considered, based on the requirement of a Time Schedule Order request (such as justified explanations for delays, a clear deadline, and enforceable milestones to keep implementation on track). We urge the Regional Board to require regular staff briefings on pending approval of any requests for longer timelines, to keep track of the volume of requests made and approved, and to ensure that any significant requests are elevated to Board level review. | However, a formal board hearing for schedule requests, even only “significant” schedule requests would slow down implementation and is contrary to the goal of speedy implementation. |
| 9.13 | NGO | Once the MPP is approved, the Tentative WDR must also provide assurance that management practices incorporated in the Track 2 Farm-Level MPP are installed and are working effectively to meet the ultimate objective of the Irrigated Lands Program (achieving clean water objectives, protecting public health, etc.). At a minimum, a self-certification requirement must be included in the annual reporting under Section 4.2 of Appendix 3. In addition, more reporting should be required to confirm that BMPs have been installed, beyond self-certification in the annual report as suggested above. Annual reports may not be required to be submitted for many months after the exceedance triggering the MPP, and therefore growers would have far too long to delay implementing their BMPs without consequence. The schedule outlined in Section 3.4.3 of Appendix 3 outlines an implementation schedule ranging from three months to one year. Annual reporting is not sufficient to ensure that the 3-month deadline is | <p>Section 4.2 is a requirement for the Discharger Group.</p> <p>However, language has been added to section 5.2.1 to require Discharger Group Members that choose Track 2 to self certify they implemented the plan in accordance with the timelines in section 3.4.3.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|--|--|
| | | met. For this reason, we urge the Regional Board to require growers participating in Track 2 to submit a separate notice or report to certify that the BMPs included in the MPP have been installed by the deadlines specified in Section 3.4.3 of Appendix 3. | |
| 9.14 | NGO | <p>Given the number of parcels (over 3500) that will require inspection, a third party expert should confirm BMP implementation. Individual growers under Track 2 are already required to work with Resource Conservation District (RCD) or Natural Resources Conservation Service (NRCS) staff to develop and certify their MPP, as stated under Section 3.4.2 of Appendix 3. RCD and NRCS staff offer expertise to determine whether the BMPs under the MPP have been implemented properly and are working effectively to reduce pollutant exposure to stormwater. As such, we urge the Regional Board to require Track 2 growers to follow up with RCD or NRCS staff after implementation of BMPs from their approved MPP, to determine whether any adjustments are necessary. If all BMPs are implemented and working effectively, then the approved MPP is sufficient. If any adjustments to existing BMPs are necessary, or if any additional BMPs are necessary, to achieve final compliance from the Regional Board, then the growers can work with the RCD or NRCS staff to create and submit an updated MPP. Without this third-party review process, Regional Board staff will either have to take all individual growers at their word that BMPs have been implemented properly, or will have to spend significant</p> | <p>During the development of the Tentative Order, the option to have third party or the Discharger Group confirm MPP implementation was considered.</p> <p>However, the Los Angeles Water Board is cognizant of third-party time and workload. Oversight of the implementation of the MPPs should remain the purview of the Water Board. The Los Angeles Water Board will inspect MPP implementation sites to ensure MPPs have been fully implemented.</p> <p>No change has been made.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|---|--|
| | | time and resources conducting numerous site inspections to confirm MPP implementation. | |
| 9.15 | NGO | <p>The follow up engagement between growers and RCD or NRCS staff will allow for adaptive management, which will be critical to MPP implementation success. Revisions to the MPP should occur as needed, without prompting from the Regional Board. We therefore urge the Regional Board to add the following clarifying language to the Tentative WDR and all appropriate Appendices to require updates to the MPP, as necessary, similar to adaptive management of the WQMP:</p> <p>“The MPP shall be reviewed annually, and revised as necessary based on ongoing monitoring data collected under the MRP. If updated, the MPP must be recertified prior to executive officer approval.”</p> | <p>Appendix 3 Section 3.4.4. allows for the adaptive management that is requested in this comment.</p> <p>This Section states “If inspections or Discharger Group monitoring data show water quality is not improving at the group monitoring site an updated MPP is required.</p> <p>Within 60 days of notification by the Los Angeles Water Board that new or modified management practices are needed, a Member shall submit a revised farm-level MPP with modified and/or upgraded management practices and revised implementation schedules. In no case shall the revised schedules be longer than the schedules in section 3.4.3 unless more time is justified and approved by the Executive Officer.”</p> <p>No change has been made.</p> |
| 9.16 | NGO | The Tentative WDR must include sufficient monitoring to adequately characterize agricultural nonpoint source | The Staff Report is a review of the 2016/2021 Conditional Waiver and |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|---|--|
| | | <p>discharges. There is a potential disconnect between existing data and what is reported for the purpose of this Tentative WDR. The Staff Report describes in detail that the representative sampling under the Conditional Waiver shows declining water quality associated with agricultural runoff within waters adjacent to agricultural lands. However, this assessment is based solely on the Conditional Waiver representative sampling. Other data sources (e.g., Ventura Countywide Stormwater Management Program for mass emissions annual reports, Ventura County Ag Commissioner annual crop and livestock reports, Ventura Watershed Council reports) indicate that these water quality issues may be even more severe. We encourage the Regional Board to incorporate any relevant data from other sources to support water quality assessment, compliance assessment, and source identification under the Tentative WDR.</p> | <p>recommendations for the General WDRs. It specifically examined agricultural discharges to waters. Analyzing data collected outside of the Conditional Waiver is outside of the scope of this permit and fall within the purview of other Los Angeles Water Board programs, such as the TMDL and Water Quality Assessment programs. The various programs of the Los Angeles Board work cooperatively and regularly coordinate, so other data sources are being considered under other regulatory mechanisms.</p> <p>No change has been made.</p> |
| 9.17 | NGO | <p>Within the monitoring and reporting requirements specific to the Tentative WDR, we are concerned that two to four sampling events per year is not sufficient to adequately characterize nonpoint runoff. One or two sampling events for each season (wet and dry) provides very little opportunity for trend analysis, which makes it more difficult to offer data transparency, not only for public engagement but also for MPP implementation, regulation, and decision-making. This may be exacerbated if one of those events is missed for any number of reasons – which we have observed under</p> | <p>There are over 16 years of water samples collected under the Conditional Waiver that allows for trend analysis. Missed sampling has not been an issue to date. Furthermore, regulatory oversight of water quality is based on exceedances of water quality benchmarks, not constituent trends.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|---|--|
| | | <p>other monitoring programs, and is a possibility here – leaving only one or even zero sampling events to monitor compliance. Monthly sampling for discharges to surface waters offers more sufficient oversight. At a minimum, the Regional Board should require six annual sampling events: quarterly dry-weather sampling events to be conducted immediately following application of nutrients and pesticides when appropriate, and an additional two wet-weather sampling events, one of which must capture the first significant rain event of the year. These requirements should apply both to individual growers conducting individual monitoring, and to Los Angeles Groups and Ventura Groups conducting representative sampling.</p> | <p>Requiring individual growers and Discharger Groups to follow sampling schedules more often prescribed to point source dischargers is not reasonable or equitable.</p> <p>As stated in the Staff Report, water quality is not improving. It is of best use of Los Angeles Water Board Staff and growers time and effort to move towards individual monitoring or individual management practice plans. The sampling frequency is in line with industry practices for nonpoint sources.</p> <p>No change has been made.</p> |
| 9.18 | NGO | <p>4. The lag time between Discharger Group awareness of an exceedance and actions to address the source of pollution must be reduced.</p> <p>Appendix 3 provides that Discharger Groups must notify the Regional Board of exceedances, and begin outreach to potentially affected Members within 30 days. We understand that some time may be required following receipt of a laboratory report to confirm that an exceedance has occurred, via calculations and other analysis. Nevertheless, we believe 30 days to complete</p> | <p>The Discharger Group samples and analyzes a variety of different constituents. Lab data results by themselves may not indicate whether a sample has exceeded a water quality benchmark. An exceedance requires a quality assurance and quality control review and then evaluation to compare against the water quality benchmark. The time required for this process</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | |
|--|--|---|
| | <p>these tasks is far too long, even considering that many individual growers may not be reachable by electronic notification procedures. Any delays in notification leads to delays in implementation of actions to reduce pollutant exposure, leading to unnecessarily prolonged compliance timelines and continued pollution discharge.</p> <p>We urge the Regional Board to revise the language about notification timing in Appendix 3 to require Discharger Groups to notify growers as soon as possible, but no later than 7 days after receipt of a laboratory report showing an exceedance occurred. We also request that Appendix 3 clarify that the Track 1 individual MRPs and Track 2 MPPs must be submitted to the Regional Board within three months of the date that notice of a documented exceedance is provided to the individual grower by a Ventura Group. This clarification will ensure that the clock starts running for individual implementation actions upon the date that notice is effectuated (whether by mail or electronically), while any obligations of the Discharger Groups will be triggered on the date the laboratory report is first received.</p> | <p>can vary based on the amount of data received and complexity of the benchmark, among other things. For example, some exceedances can be identified based on one sample (shortly after the lab finishes analyzes) and some are based on multiple samples over a longer time.</p> <p>To account for this variation, education of the Discharger Group member begins as soon as the Discharger Group identifies the exceedance. Given that the steps required to comply with Track 1 or Track 2 and fully implement the various components will play out over the next few years, a 23-day reduction in the notification schedule recommended by the commentor (compared to the notification schedule as written in the Tentative Order) would not make a significant difference in the time needed for implementation, but would require the expenditure of significantly more resources by Discharger Groups. Also, data analyses mistakes are more likely if rushed.</p> |
|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----|--|---|
| | | | <p>Streamlining the approach (as incorporated in the Tentative Order) makes for quicker, more effective implementation.</p> <p>No change has been made.</p> |
| 9.19 | NGO | <p>The Regional Board should not allow anonymous reporting, and should make all data publicly accessible. Water quality, be it compliant or not, is a matter of public health and safety. Anonymous reporting within the Tentative WDR, and specifically under the Irrigation and Nutrient Management Report, should be removed. We urge the Regional Board to provide an interactive, publicly accessible, and user-friendly map identifying the location of any known exceedances. In addition, all water quality monitoring data, reports, and implementation evidence (e.g., photographic evidence) must be uploaded to a publicly accessible database, such as the SMARTS database, to ensure transparency.</p> | <p>State Water Board Order WQ 2018-0018 In Re WDRs No. R5-2012-0016 for Growers in the Eastern San Joaquin River Watershed (ESJ Order) that the INMP/R reporting be anonymous.</p> <p>However, for the surface water requirements, for which the ESJ Order does not dictate anonymity, if a grower is subject to individual discharger limitations, that grower's anonymity no longer remains.</p> <p>All reports submitted to the Los Angeles Water Board are available either online or through request. Additionally, all individual monitoring reports must be submitted in a CEDEN compatible format and the drinking water well sampling is</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|----------------|---|--|
| | | | required to be submitted through GeoTracker. No change has been made. |
| 10.1 | City of Oxnard | <p>In 2018 the City began nutrient sampling in the harbor. Sampling was conducted following two rain events and during two dry weather periods in fall 2018 and winter 2019 at 31 stations located in the Harbor and the privately-owned Edison Canal (Canal). Additionally, since 2021, the City and CINC volunteers have continued to provide month sampling, under the LARWQCB approved Combined Monitoring & Quality Assurance Project Plan (QAPP), to provide and record data of the Harbor water quality.</p> <p>The man-made Canal is host to two separate agricultural run-off drains: the Doris and 5th Street drains. Nitrogen and phosphorus concentrations are elevated in the Canal following wet weather and are lower during dry weather. This indicates a net influx of nutrients that contribute to algae growth in the Canal during wet weather, presumably from the surrounding agricultural fields.</p> <p>Clear and direct requirements to implement source control for nutrient runoff e.g., agricultural runoff) to reduce nutrient loadings to the Harbor via the agricultural run-off drains are paramount to address the water quality concerns in the Harbor. This approach will</p> | <p>The Los Angeles Water Board appreciates the diligence of the City of Oxnard and the CINC volunteers in the protection of water quality in the Channel Islands Harbor.</p> <p>The Tentative Order establish requirements to prevent and address water quality impacts to waters of the state as a result of irrigated agriculture. The requirements established in the Tentative Order ensure that discharges from irrigated agricultural lands do not cause or contribute to an exceedance of applicable water quality objectives or impair beneficial uses of waters of the state within the Los Angeles Region.</p> <p>The TMDLs that identified agriculture discharges as a source of pollution are incorporated into the Tentative Order. The Tentative Order hold the agricultural</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|---|--|
| | | <p>require stakeholders from agriculture to have requirements that assess the impacts of the waste discharge of irrigated agricultural land and evaluate the effectiveness, through measurable data, of the best management practices to control the waste discharge.</p> | <p>dischargers accountable to the load allocations assigned in the TMDLs.</p> <p>Additionally, under the Tentative Order agricultural dischargers that are not subject to a TMDL are still required to meet water quality benchmarks that are consistent with the Basin Plan.</p> <p>If agricultural dischargers are not meeting those water quality benchmarks, either identified in TMDLs or the Basin Plan, the Tentative Order require additional management practices to be implemented.</p> <p>The Tentative Order require annual sampling to be reported in annual monitoring reports and the results of the annual monitoring be analyzed in the Water Quality Management Plan. Based on the results of the analysis in the Water Quality Management Plan, management practice recommendation and implementation will be reconsidered.</p> |
|--|--|---|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|----------------|--|--|
| | | | In addition, the Tentative Order also require the Ventura County Discharger Group (VCAILG) to add an additional monitoring site to Edison Canal specifically to capture agricultural discharge going into Channel Islands Harbor. |
| 10.2 | City of Oxnard | In conclusion, the proposed WDR should list specific responsibilities of the stakeholders from agriculture that also identifies incentives for compliance and penalties for non-compliance. It is crucial to incorporate clear and enforceable requirements that align with the Water Board's mission, vision, goals, and purpose for the WDR to protect the Harbor water quality. | <p>The Tentative Order provide specific requirements agricultural dischargers must comply with in order to discharge water from their irrigated agricultural lands.</p> <p>If a discharger does not comply with the requirements in the Tentative Order they are subject to enforcement by the Los Angeles Water Board under the Water Code consistent with the priorities and processes outlined in the State Water Board's Water Quality Enforcement Policy.</p> |
| 11.1 | B. Perello | From my service as an elected official on the Oxnard City Council being appointed to represent five (5) cities in Ventura County on the Fox Canyon Ground Water Agency and the Ventura Regional Sanitation District serving with other elected officials some things are very clear. | The Los Angeles Water Board agrees that agricultural contributions to water quality impairments are a serious issue. Because of these concerns, the Los Angeles Water Board began the regulation of agricultural discharges in 2005 and |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|------------|--|---|
| | | <p>If no inspection, no sanctions, no accountability are involved in areas impacting health safety and welfare little if any change takes place, no matter the seriousness of the matter.</p> <p>The water runoff from agricultural properties is a serious issue our State of California has played political football with for far too long, this issue must come to a head as it should have years ago.</p> | <p>have continued to develop and make improvements to this regulatory program since then. We intend these Tentative Order to result in improvements in water quality in the Los Angeles Region.</p> <p>The Tentative Order hold dischargers accountable for the water that is discharged from the fields.</p> <p>In addition, see comment response 10.1.</p> |
| 11.2 | B. Perello | <p>I trust you have received information from sources better able to elaborate then I about this matter.</p> <p>Take action the water quality is too important to as the saying goes “kick the can down the road” no party be they ag business or municipality deserves a pass when dealing with public health, please do your job.</p> | <p>The Los Angeles Water Board has heard from more than 80 residents of the City of Oxnard and other local residents in addition to environmental groups, agricultural dischargers and discharger groups and have considered all the comments in preparing the revised tentative Tentative Order. On September 28, 2023, the Los Angeles Water Board will take action on the Tentative Order.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|------|--|--|--|--|
| | | | | In addition, see comment response 10.2 |
| 12.1 | C. Carter, P. Younis, A. & C. Jourdan, G. Ross, A. Bierman, B. Tonin, J. Nesbit, A. Wiggins, P. Schirmer, L. Effress, C. McNally, CJ Polacek, S. Levine, E. & A. Dubber, J. Wallach, G. Gallinot, D. Gallinot, | G. Shank, C. Taylor, D. Kalian, L. Gibson, T. McInally, J. Scapa, L. & C. Schuss, M. Havas, K. & R. Chapman, J. Telles, R. & W. Romano, C. George, T. Cook, P. & V. Kersey, N. & R. Katz, S. Von Lanken, G. Degner, K. Laufer, | <p>Thank you for this opportunity to provide Public Comments on the proposed WDR for Requirements for Discharges from Irrigated Agricultural Lands. We agree with the requirements of the Monitoring and Reporting Plan (MRP) to:</p> <ul style="list-style-type: none"> • assess the impacts of waste discharges from irrigated agricultural lands on waters of the state, • evaluate the effectiveness of management practices to control waste discharges, • track progress in reducing the amount of waste discharged to waters of the state to improve water quality and protect beneficial uses, and • assess compliance with water quality limitations, where applicable. | Comment noted. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|--|---|--|--|--|
| | B. Roper, C. Trevino, D. Fitzgerald, J. & J. Eivins, R. & L. Consiglio, E. Kampel, H. Goodman, L. Minea, M. Irvin, T. Sojka, S. Asplund, J. & A. Gibson, J. Wiese, R. Bolsky, W. Clark, M. & L. Miller, H. Hagner, S. Xuan, J. Ferro, | I. & D. Gribble, R. & K. Elzinga, D. Barrette, B. Carter, D. Copper, R. & A. Cabral, M. Haase, B. Judis, C. Gray, C. Bryson, M. Penhart, T. Verder, J. Wanda, D. Colker, G. Bregante, J. & E. Berman, D. McInnes, M. & S. Wolfe, K. Hayden | | |
|--|---|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|------|--|---|--|-------------------------------------|
| | J. O'Brien, A. Keller, | | | |
| 12.2 | C. Carter, A. & C. Jourdan, G. Ross, A. Bierman, B. Tonin, J. Nesbit, A. Wiggins, P. Schirmer, C. McNally, CJ Polacek, H. Schneider , S. Levine, E. & A. Dubber, J. Wallach, G. Gallinot, | G. Shank, C. Taylor, D. Kalian, L. Gibson, T. McNally, J. Scapa, L. & C. Schuss, M. Havas, K. & R. Chapman, J. Telles, R. & W. Romano, C. George, T. Cook, P. & V. Kersey, N. & R. Katz, S. Von Lanken, G. Degner, K. Laufer, | Farmers and ranchers that pollute must be accountable for verifying that they are achieving water quality standards to protect the environment and public health. This accountability is essential to incentivize growers to make the investments that are needed to implement effective BMPs (Best Management Practices) ensuring water quality targets are achieved. | See comment response 10.1 and 10.2. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|--|--|--|--|--|
| | D. Gallinot, B. Roper, C. Trevino, D. Fitzgerald, J. & J. Eivins, R. & L. Consiglio, E. Kampel, H. Goodman, L. Minea, M. Irvin, T. Sojka, S. Asplund, J. & A. Gibson, J. Wiese, R. Bolsky, W. Clark, M. & L. Miller, H. Hagner, | I. & D. Gribble, R. & K. Elzinga, D. Barrette, B. Carter, D. Copper, R. & A. Cabral, M. Haase, B. Judis, C. Gray, C. Bryson, M. Penhart, T. Verder, J. Wanda, D. Colker, G. Bregante, J. & E. Berman, D. McInnes, M. & S. Wolfe, K. Hayden | | |
|--|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|------|--|--|---|--|
| | S. Xuan, J. Ferro, J. O'Brien, A. Keller, | | | |
| 12.3 | <p>Chuck Carter; A. & C. Jourdan B. Tonin, J. Nesbit, A. Wiggins, L. Effress, P. Schirmer C. McNally, CJ Polacek, H. Schneider , S. Levine, E. & A. Dubber, J. Wallach, G. Gallinot,</p> | <p>C. Taylor, D. Kallian, L. Gibson, T. McNally, J. Scapa, L. & C. Schuss, M. Havas, K. & R. Chapman, J. Telles, R. & W. Romano, C. George, T. Cook, P. & V. Kersey, N. & R. Katz, S. Von Lanken, G. Degner,</p> | <p>Since NRG blocked the north end of Edison Canal in 2018 contaminants must travel 4.5 miles by thousands of homes to the ocean at the harbor entrance. Harbor water quality has been degraded.</p> | <p>While the actions of NRG are outside the scope of the Tentative Order, the Tentative Order require the Ventura County Discharger Group to add a monitoring site to Edison Canal specifically to capture agricultural discharge going into Channel Islands Harbor.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|--|--|---|--|--|
| | D. Gallinot, B. Roper, C. Trevino, D. Fitzgerald, J. & J. Eivins, R. & L. Consiglio, E. Kampel, H. Goodman, L. Minea, M. Irvin, T. Sojka, S. Asplund, J. & A. Gibson, J. Wiese, R. Bolsky, W. Clark, M. & L. Miller, H. Hagner, | K. Laufer, I. & D. Gribble, R. & K. Elzinga, D. Barrette, B. Carter, D. Copper, R. & A. Cabral, M. Haase, B. Judis, C. Gray, C. Bryson, M. Penhart, T. Verder, J. Wanda, D. Colker, G. Bregante, J. & E. Berman, D. McInnes, M. & S. Wolfe, | | |
|--|--|---|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|------|---|---|---|---|
| | S. Xuan, J. Ferro, J. O'Brien, A. Keller, G. Shank, | K. Hayden | | |
| 12.4 | C. Carter; HBCA A. & C. Jourdan, A. Bierman, B. Tonin, J. Nesbit, A. Wiggins, P. Schirmer, L. Effress, C. McNally, CJ Polacek, S. Levine, E. & A. Dubber, J. Wallach, G. Gallinot, | G. Shank, C. Taylor, D. Kalian, L. Gibson, T. McInally, J. Scapa, L. & C. Schuss, M. Havas, K. & R. Chapman, J. Telles, R. & W. Romano, C. George, T. Cook, P. & V. Kersey, N. & R. Katz, S. Von Lanken, | Farmers and ranchers must be contributors to the remediation solutions for <i>Oxnard Coastal</i> and <i>Channel Islands Harbor Subwatershed</i> Responsibility Areas. | <p>The Los Angeles Water Board agrees that the agricultural dischargers must provide the solutions for the quality of water coming from agriculture. All discharges from irrigated agricultural lands must, at a minimum, meet the water quality benchmarks identified in the Basin Plan. Additionally, growers located in areas corresponding with TMDLs that specifically identify agriculture as a source and provide a load allocation for agriculture, must also meet the TMDL specific water quality benchmarks.</p> <p>In addition, see comment response 10.1.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|---|---|--|--|
| D. Gallinot, B. Roper, C. Trevino, D. Fitzgerald, J. & J. Eivins, R. & L. Consiglio, E. Kampel, H. Goodman, L. Minea, M. Irvin, T. Sojka, S. Asplund, J. & A. Gibson, J. Wiese, R. Bolsky, W. Clark, M. & L. Miller, H. Hagner, | G. Degner, K. Laufer, I. & D. Gribble, R. & K. Elzinga, D. Barrette, B. Carter, D. Copper, R. & A. Cabral, M. Haase, B. Judis, C. Gray, C. Bryson, M. Penhart, T. Verder, J. Wanda, D. Colker, G. Bregante, J. & E. Berman, D. McInnes, | | |
|---|---|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|------|--|---|---|----------------------------|
| | S. Xuan, J. Ferro, J. O'Brien, A. Keller, | M. & S. Wolfe, K. Hayden | | |
| 12.5 | C. Carter, HBCA, P. Younis, A. & C. Jourdan, G. Ross, A. Bierman, B. Tonin, J. Nesbit, A. Wiggins, L. Effress, C. McNally, CJ Polacek, H. Schneider , S. Levine, E. & A. Dubber, J. Wallach, | A. Keller, G. Shank, C. Taylor, D. Kalian, L. Gibson, T. McInally, J. Scapa, L. & C. Schuss, M. Havas, K. & R. Chapman, J. Telles, R. & W. Romano, C. George, T. Cook, P. & V. Kersey, N. & R. Katz, S. Von Lanken, | The WDR needs to provide compelling incentives or consequences for achieving compliance with water quality limitations, where applicable. | See comment response 10.2. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|--|---|---|--|--|
| | G. Gallinot, D. Gallinot, B. Roper, C. Trevino, D. Fitzgerald, J. & J. Eivins, R. & L. Consiglio, E. Kampel, H. Goodman, L. Minea, M. Irvin, T. Sojka, S. Asplund, J. & A. Gibson, J. Wiese, R. Bolsky, W. Clark, M. & L. Miller, | G. Degner, K. Laufer, I. & D. Gribble, R. & K. Elzinga, D. Barrette, B. Carter, D. Copper, R. & A. Cabral, M. Haase, B. Judis, C. Gray, C. Bryson, M. Penhart, T. Verder, J. Wanda, D. Colker, G. Bregante, J. & E. Berman, D. McInnes, | | |
|--|---|---|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|------|--|---|--|--|
| | H. Hagner, S. Xuan, J. Ferro, J. O'Brien, | M. & S. Wolfe, K. Hayden | | |
| 12.7 | Carter, C.; A. & C. Jourdan G. Ross, A. Bierman, B. Tonin, J. Nesbit, A. Wiggins, L. Effress, C. McNally, CJ Polacek, S. Levine, E. & A. Dubber, J. Wallach, G. Gallinot, D. Gallinot, | C. Taylor, D. Kalian, L. Gibson, T. McNally, J. Scapa, L. & C. Schuss, M. Havas, K. & R. Chapman, J. Telles, R. & W. Romano, C. George, T. Cook, P. & V. Kersey, N. & R. Katz, S. Von Lanken, | I look forward to collaborating with the Regional Board and VCAILG as this WDR process moves forward. These elements are essential to protect the Region's valuable water resources. | The Los Angeles Water Board looks forward to continuing to work with the stakeholders, including the commenters, as the Tentative Order are adopted and implemented. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|--|---|---|--|--|
| | B. Roper, C. Trevino, D. Fitzgerald, J. & J. Eivins, R. & L. Consiglio, E. Kampel, H. Goodman, L. Minea, M. Irvin, T. Sojka, S. Asplund, J. & A. Gibson, J. Wiese, R. Bolsky, W. Clark, M. & L. Miller, H. Hagner, S. Xuan, J. Ferro, | G. Degner, K. Laufer, I. & D. Gribble, R. & K. Elzinga, D. Barrette, B. Carter, D. Copper, R. & A. Cabral, M. Haase, B. Judis, C. Gray, C. Bryson, M. Penhart, T. Verder, J. Wanda, D. Colker, G. Bregante, J. & E. Berman, D. McInnes, | | |
|--|---|---|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | | |
|------|---|---|--|----------------------------|
| | J. O'Brien, A. Keller, G. Shank, | M. & S. Wolfe, K. Hayden | | |
| 13.1 | Chuck Carter; D. Mitchell, McInnes, D.; | <p>We agree with the requirements of the Monitoring and Reporting Plan (MRP) to</p> <ul style="list-style-type: none">• Assess the impacts of waste discharges from irrigated agricultural lands on waters of the state,• Evaluate the effectiveness of management practices to control waste discharges,• Track progress in reducing the amount of waste discharged to waters of the state to improve water quality and protect beneficial uses, and• Assess compliance with water quality limitations, where applicable.• Region-by-Region approaches should reflect local conditions.• We support the Region's incorporation of nitrogen application and discharge limits to protect impaired groundwater basins.• We believe it is essential that the renewed Order upholds the existing compliance schedule and enforceable effluent limit provisions. | | Comment noted. |
| 13.2 | Chuck Carter; D. Mitchell, | We are very concerned that the proposed Water Quality Management Plan (WQMP) and R4-2023- | | See comment response 10.2. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|---|---|--|
| | McInnes, D.; | xxxx Waste Discharge Requirements (WDR) plans contain conflicting statements, missing information and lacks incentives or consequences for non-compliance. | The Los Angeles Water Board has clarified the statements and information through addressing the comments received in this letter and in other letters. The Los Angeles Water Board has made appropriate changes to the General Order, Appendices, and Staff Report where necessary. |
| 13.3. | Chuck Carter; D. Mitchell, McInnes, D.; | The proposed WDR lacks definition of contributor responsibilities. Farmers and ranchers must be identified as contributors to the remediation solutions for <i>Oxnard Coastal</i> and <i>Channel Islands Harbor Subwatershed</i> Responsibility Areas. | See comment response 10.1, 10.2, and 12.4. |
| 13.4 | Chuck Carter, D. Mitchell, McInnes, D.; | <p>The proposed WDR lacks compelling incentives or penalties for non-compliance.</p> <ul style="list-style-type: none"> ➤ Incentives and Consequences – Enforcement? <ul style="list-style-type: none"> ○ Good goal: to continue water quality monitoring until Water Quality Objectives are achieved. | <p>The Tentative Order requires annual monitoring reports and water quality management plans, which include monitoring and trend analysis of samples, to continue until water quality objectives are achieved and, additionally, after water quality benchmarks are achieved to ensure they remain attained.</p> <p>No change has been made.</p> |
| 13.5 | Chuck Carter, D. Mitchell, McInnes, D.; | <ul style="list-style-type: none"> ○ Offer incentives like “Good Grower” recognition and monetary award for growers who achieve Water Quality | Such incentives are outside of the scope of the program. The Los Angeles Water Board has worked and continues to work with growers |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|---|---|---|
| | | Objectives earlier than the Compliance Deadline. | and support groups in the region to access Federal and State grant money to aid in implementation. No change has been made. |
| 13.6 | Chuck Carter, D. Mitchell, McInnes, D.; | <ul style="list-style-type: none"> ○ Modify Water Quality Objectives that are NOT attainable, such as DDT derivatives. | <p>The water quality objectives are attainable with the correct implementation measures.</p> <p>Furthermore, the water quality objectives which are found in the Basin Plan, and TMDLs, were developed as necessary to protect beneficial uses. Modifying objectives in the Basin Plan or in TMDLs is outside the scope of the Tentative Order.</p> <p>No change has been made.</p> |
| 13.7 | Chuck Carter; D. Mitchell, McInnes, D.; | <ul style="list-style-type: none"> ○ Facilitate EPA, NRCS, RCD, State and Federal grants to growers who implement proven structural or treatment BMPs. | <p>Throughout the Irrigated Lands Regulatory program, the Los Angeles Water Board has worked to aid agricultural dischargers in accessing these funds.</p> <p>To date, over \$13 million dollars have been awarded to fund agricultural pollution reduction projects within the region. Here are</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | | <p>some examples of funding that has already been made available to dischargers.</p> <p>Past projects funded by Prop 13, Prop 84, and Prop 50 amounts to over \$4.5 million in our region.</p> <p>National Water Quality Initiative (NWQI) provides a way to accelerate voluntary, on-farm conservation investments and focused water quality monitoring and assessment resources where they can deliver the greatest benefits for clean water and is facilitated by the USDA-NRCS. For the Los Angeles Region the U.S. Department of Agriculture approved funds for the McGrath Lake, Lower Conejo Arroyo, Las Posas Arroyo, Revolon Slough-Calleguas Creek, and Mugu Lagoon subwatersheds, which are part of the Calleguas Creek watershed under the NWQI grant.</p> <p>NWQI has obligated over 4.5 million dollars in these watersheds to these management practices.</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|---|--|---|
| | | | <p>The USEPA provides funding from the Clean Water Act Section 319(h) Grant Program to states to implement nonpoint source control activities, with focus on impaired water bodies. To date, over \$4 million dollars in 319 funds have been awarded for growers in our region.</p> <p>A couple of examples of 319(h) grants are for projects to reduce non-point source pollution such as implementing on-farm nutrient and irrigation management stations to monitor and mitigate agricultural nitrogen migration. Proposals are solicited for 319(h) grant funds every fall.</p> |
| 13.8 | Chuck Carter, D. Mitchell, McInnes, D.; | <ul style="list-style-type: none">➤ Consequences: Appendix 3 Paragraph 3.4.5 Farm-Level MPP Enforcement. "If inspections show that the farm-level MPP is not being implemented as approved, Members may be subject to enforcement."➤ Enforceable consequences offer several advantages: | <p>It is to the benefit of all stakeholders that growers meet water quality objectives and TMDL-triggered waste discharge limitations through active participation and compliance with the Tentative Order.</p> <p>However, if a discharger does not comply with all requirements in the</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | <ul style="list-style-type: none">➤ Deterrence: Clearly outlined consequences act as a powerful deterrent against violations, discouraging individuals from deviating from established guidelines.➤ Consistency: Enforceable consequences ensure consistency in the application of the policy, thereby fostering fairness and impartiality across the board.➤ Credibility: Commitment to upholding policies gains credibility when supported by a system of enforceable consequences, demonstrating a dedication to maintaining high standards.➤ Efficiency: The presence of consequences minimizes the need for reactive measures, as individuals are more likely to comply proactively, leading to a more streamlined and efficient operational environment.➤ To move forward, we recommend that the WDR incorporates a section specifically addressing enforceable consequences. The lack of consequences within a policy | <p>Tentative Order they are subject to enforcement by the Los Angeles Water Board pursuant to sections 13261 (for nonenrollment), 13350 (for permit violations), and 13268 (for monitoring and reporting violations) of the Water Code.</p> <p>The State Water Resources Control Board Water Quality Enforcement Policy will guide enforcement actions for these permit violations and a separate section in the Tentative Order is unnecessary. In addition, enforcement options are wide-ranging and case-specific, so it would be speculative to include a section in the Tentative Order.</p> <p>No change has been made.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--|---|--|
| | | framework can lead to a breakdown in compliance, accountability, consistency, and overall organizational effectiveness. To mitigate these potential outcomes, it is crucial to incorporate clear and enforceable consequences that align with the Waterboard's mission, vision, goals, and purpose for the WDR. | |
| 13.9 | Chuck Carter; HBCA, D. Mitchell, McInnes, D.; | <p>The proposed WDR plan has conflicting statements:</p> <p>The following monitoring sites are NOT included in the proposed WDR R4-2023-xxxx</p> <p>1.1.1 Monitoring Sites: "Monitoring sites must be selected to adequately characterize the majority of the discharge..."</p> <p>1.1.1a The only monitoring site for the Oxnard Coastal Watershed/ Channel Islands Harbor subwatershed is CIHD_VICT specified in the 2017 QAPP. It is NOT mentioned in the MRP or the WQMP, but it is reported in the <i>2022 Annual Monitoring Report</i>.</p> | <p>CIHD is not the only monitoring site for the Oxnard Coastal subwatershed.</p> <p>As stated on page 9 of the staff report, <i>"For the purposes of this report, the one sampling site located in the Oxnard Coastal Watershed (OXD_CENTR) is grouped with the Calleguas Creek Watershed data."</i></p> <p>Additionally, CIHD_VICT can be found in the VCAILG submitted 2017 Monitoring and Reporting Plan (MRP), the Water Quality Management Plans submitted under the 2016/2021 Waiver, and the 2022 Annual Monitoring Report.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|--|---|---|
| | | | <p>In Ventura County, discharges from irrigated agricultural are assessed through a representative monitoring program. This means some subwatersheds are not directly monitored but discharge conditions are evaluated based on samples from subwatersheds that are similar.</p> <p>No change was made.</p> |
| 13.10 | Chuck Carter; HBCA, D. Mitchell, McInnes, D.; | <p>1.1.1b L.B. Nye responded to a request about the omission of CIHD_VICT monitoring site on June 15, 2021, and stated “The Ag Order that staff will recommend to the Board will include requirements for a new monitoring site for better characterization of the Ag discharge. VCAILG does continue to monitor CIHD_VICT monitoring site.” We can NOT find CIHD_VICT mentioned in this proposed R4-2023_WDR.</p> <p>1.1.1c The current location of CIHD_VICT is 1.5 miles from the discharge point into Edison Canal. The location has reported “Not Sampled” due to lack of flow 50% of the times in the last 3 years. The new monitoring site should characterize the 2,400 acres of VCAILG land discharging into Edison Canal.</p> | <p>Appendix 3 Section 1.1.1. states that the Discharger Group must add an additional monitoring site for Table 1 constituents [constituents to be monitored at all sites] that captures agricultural discharges in Channel Islands Harbor. This site is in addition to previously approved sites such as CIHD_VICT.</p> <p>The final location of the proposed site (and subsequent name) have not yet been decided.</p> <p>Appendix 3 Section 1.1.1. also states “Discharger Groups covered by Order No. R4-2021-0045-A02 shall maintain any monitoring sites</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|---|---|--|
| | | | <p>and analyses approved under that Order...” CIHD_VICT was previously approved and therefore is required to be submitted in the Monitoring and Reporting Plan.</p> <p>No change has been made.</p> |
| 13.11 | C. Carter; HBCA, D. Mitchell, McInnes, D.; | <p>The following information is incomplete in R4-2023_WDR plan:</p> <ul style="list-style-type: none"> ➤ Table 3 Water Quality Benchmark Compliance Deadlines for TMDL <ul style="list-style-type: none"> ○ McGrath Lake OC Pesticides and PCBs TMDL June 30, 2021 ○ Harbor Beaches of Ventura Co Bacteria TMDL Dec 18, 2018 <p>The 2016 VCAILG QAPP states: 6. Project Description “Two TMDLs cover areas of the Oxnard Plain. The <i>Channel Islands Harbor Bacteria TMDL</i> (aka <i>Harbor Beaches of Ventura County Bacteria TMDL</i> Resolution No. R2007-017) includes a requirement for agricultural dischargers to perform monitoring at CIHD_VICT.” There are no TMDL Benchmarks for <i>Oxnard Coastal/ Channel Islands</i></p> | <p>The Harbor Beaches of Ventura County Bacteria TMDL does not assign agricultural dischargers a load allocation; therefore, it is not included in the referenced Table 3. Agricultural dischargers were identified as possible contributors but no load allocations were determined in the TMDL.</p> <p>Monitoring sites are identified in the Discharger Group submitted Monitoring and Reporting Plan. Appendix 3 Section 1.1.1 requires that the Ventura County Discharger Group, covered by Order No. R4-2021-0045-A02, shall maintain any monitoring sites and analyses approved under that Order. The monitoring sites approved under that Order, through the Monitoring and Reporting Plan, includes</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|---|
| | | <p><i>Harbor</i> subwatershed in R4_2023_WDR. Who is responsible for updating the <i>Water Quality Management Plan</i> to include these critical TMDLs and Monitoring Sites?</p> | <p>CIHD_VICT. See comment response 3.b.9.</p> <p>Only TMDLs that specify load allocations for agricultural discharges are specifically incorporated into the Tentative Order and only those TMDLs in the Order are required to be included in the WQMP.</p> <p>See comment 2b.6 regarding incorporation of possible future TMDLs into the Tentative Order.</p> <p>However, the Ventura County Discharger Group has been directed to add an additional site to monitor agricultural discharges in Channel Islands Harbor. See comment response 3.b.9. The additional site will be monitored for Table 1 constituents. The water quality benchmarks of Table 1 are from the Basin Plan. If agricultural dischargers are not meeting those water quality benchmarks, then additional management practices must be implemented.</p> |
|--|--|--|---|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|-------|---|--|--|
| | | | No change has been made. |
| 13.11 | Chuck Carter; D. Mitchell, McInnes, D.; | Staff Report page 107 incorrectly states: “The situation has since improved after the City of Oxnard installed aerators in the harbor (Leung, 2018b)” CEDEN data collected in 2021 shows the aerators had little effect on Dissolved Oxygen or other constituents. <i>Ask Aquatic Bioassay Consulting</i> to explain the intended and actual effect of the aerators. Aerators are a band-aide, NOT a solution. | <p>The Staff Report sentence referenced in the comment states: “The situation has since improved after the city of Oxnard installed aerators in the harbor (Leung, 2018b), but reducing pollutant inputs to the harbor including agricultural runoff would be a more effective long-term solution in ensuring the 2018 event does not occur again.”</p> <p>Ultimately, more effective-long term solutions are needed to address the conditions that led to 2018 event and proactive work to keep such an event from occurring again.</p> <p>No change to the Staff Report has been made.</p> |
| 14.1 | Chuck Carter | This comment is specifically regarding the lack of any monitoring sites or TMDLs for the <i>Oxnard Coastal</i> watershed of the <i>Channel Islands Harbor</i> subwatershed in the proposed WDR. | See comment response 3.b.11. |
| 14.2 | Chuck Carter | The Quality Assurance Project Plan (QAPP) revised February 22, 2017, page 11 states: | See comment response 3.b.9 and 3.b.10. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------------|--|---|
| | | <p>“Two TMDLs cover areas of the Oxnard Plain. The <i>Channel Islands Harbor Bacteria TMDL</i> includes a requirement for agricultural discharges to perform monitoring. To comply with this TMDL the VCAIL (sic) GMP includes monitoring site CIHD_VICT, from which bacteria samples are collected. Monitoring for the <i>McGrath Lake Pesticides, PCBs, and Sediment Toxicity TMDL</i> will take place at the OXD_CENTR site.”</p> <p>Neither CIHD_VICT nor OXD_CENTR are included in WDR R4-2023-xxxx.</p> <p>Since the TMDLs and QAPP require monitoring of <i>Oxnard Coastal</i> watershed, why have these sites been excluded?</p> | <p>Monitoring sites are identified in the Discharger Group submitted Monitoring and Reporting Plan. Appendix 3 Section 1.1.1 requires that the Ventura County discharger groups to covered by Order No. R4-2021-0045-A02 shall maintain any monitoring sites and analyses approved under that Order. The monitoring sites approved under that Order, through the Monitoring and Reporting Plan, includes OXD_CENTR.</p> <p>The permit is not a living document. No sites are explicitly included in the Tentative Order. This allows flexibility in the monitoring program so that monitoring sites can be adjusted in order to respond to changed circumstances in the field or other changes.</p> <p>No change has been made.</p> |
| 14.3 | Chuck Carter | <p>LB Nye’s email of June 15, 2021, stated “The Ag Order that the staff will recommend to the Board will include requirements for a new monitoring site for better characterization of the Ag discharge.” We cannot find any reference to the</p> | <p>See comment response 13.9, 13.10. and 13.11.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|--------------|--|--|
| | | existing CIHD_VICT or a new location on Doris Drain. | |
| 14.4 | Chuck Carter | <p>Who will be responsible for adding CIHD_VICT and OXD_CENTR to the WDR and Water Quality Management Plan?</p> <p>Without any requirement to monitor the <i>Oxnard Coastal</i> watershed there will be no monitoring sites for Responsibility Area 11 which includes OXD_CENTR and CIHD_VICT.</p> | See comment response 13.10 and 14.2. |
| 14.5 | Chuck Carter | <p>Please explain how this proposed WDR will improve the water quality in <i>Channel Islands Harbor</i>.</p> | <p>The General Order establishes requirements to prevent and address water quality impacts to waters of the state as a result of irrigated agriculture. The requirements established in the General Order ensure that discharges from irrigated agricultural lands do not cause or contribute to an exceedance of applicable water quality objectives or impair beneficial uses of waters of the state within the Los Angeles Region.</p> <p>Therefore, the Tentative Order will reduce agricultural discharges throughout the Los Angeles Region which in turn will improve water quality in the entire Los Angeles</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----------------|--|--|
| | | | Region, including Channel Islands Harbor. See also comment response 10.1. |
| 15.1 | HBCA | 2) The proposed WDR does not provide potent incentives AND deterring consequences for non-compliance. A part of a solution could be the required continued water quality monitoring by a contributor to meet an area's water quality objective. | See comment responses and 3.b.4, 3.b.5, and 3.b.8. |
| 16.1 | Patricia Younis | <p>As an 18-year resident of the Oxnard community of Mandalay Bay, I am very concerned about both ocean water quality and the farmland in this community. We know and recognize that many of these beautiful farms immediately adjacent to the ocean as well as the others located upstream and more inland, have been farmed for generations. We respect that – but it is not ok for farmers and ranchers to ignore their moral and ethical obligation to farm in peace with the environment. That said, it is urgent that, as a Board, you not just agree but actively support whatever efforts are necessary to ensure that damage to the waters of the Pacific Ocean which is occurring as a direct result of unregulated farm runoff, be stopped at once.</p> <p>The Water Board's obligation to assure that all of us respect and honor the ocean can no longer be swept under the rug in regards to these farms and</p> | See comment responses 12.2, 12.4, 13.8, and 14.5. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----------------|---|--|
| | | ranches. This obligation can no longer be ignored - and violations by farmers and ranchers can no longer go unpunished. | |
| 16.2 | Patricia Younis | <i>We urge you and the Water Board to address this issue immediately and with no further delays.</i> | <p>Discharges from Irrigated Lands have been regulated in the Los Angeles Region since 2005 through a series of permits (2005 Waiver, 2010 Waiver and the 2016/2021 Waiver). Each permit renewal cycle has been a refinement of the previous permit in an effort to incorporate new knowledge into the process. The Tentative Order is the newest permit iteration for the Program and will incorporate data, lessons and knowledge that have been gathered within the region and statewide.</p> <p>The Los Angeles Water Board will take action on the Tentative Order on September 28, 2023 Board Meeting.</p> |
| 16.3 | Patricia Younis | My family and I thank you for this opportunity to provide Public Comments on the proposed WDR for Requirements for Discharges from Irrigated Agricultural Lands with which we completely agree. The violating farmers and ranchers that pollute must be immediately identified and held | See comment responses 12.2, 12.4, and 13.8. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-----------------------|--|---|
| | | accountable. They must change their systems and be held liable until they can prove without question that their farms are achieving required water quality standards that protect the environment and public health. | |
| 16.4 | Patricia Younis | Farmers and ranchers are the major contributors to the remediation solutions for Oxnard Coastal and Channel Islands Harbor Sub-watershed Responsibility Areas. | See response to comment 12.4. |
| 17 | Ann & Charles Jourdan | IGNORING THE DISCHARGES FROM IRRIGATED AGRICULTURAL LANDS IS UNACCEPTABLE!! | <p>Discharges from irrigated agricultural lands has not been ignored and been subject to regulation in the Los Angeles region since 2005. See response to comments 11.1 and 16.2.</p> <p>The requirements established in the General Order ensure that discharges from irrigated agricultural lands do not cause or contribute to an exceedance of applicable water quality objectives or impair beneficial uses of waters of the state within the Los Angeles Region. The General Order establishes requirements to prevent and address water quality impacts to waters of the state as a result of irrigated agriculture.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|----|------------------------|---|---|
| 18 | Jon Schwallbach, Ph.D. | <p>I want to add my voice to those calling for better regulation of agricultural discharge into Edison canal and Channel Islands Harbor. When the water board allowed pumping to cease 5 years ago the promised to help maintain the area's water quality...that has not happened. Better measures must be implemented to control sources of nutrients, pesticides, and bacteria.</p> <p>I've been involved with water sampling efforts approved by the water board and have seen first hand how the agricultural drains are the major sources of these contaminants that degrade our harbor water quality.</p> | <p>The commenter's reference to the ceasing of pumping is outside the scope of the Tentative Order, see response to comment 12.3.</p> <p>The Tentative Order directs the Ventura County Discharger Group to add an additional monitoring site to capture agricultural discharge into Channel Islands Harbor.</p> <p>No change has been made.</p> |
| 19 | Gary Ross | <p>Shutting down the NRG eliminated the designed flow of the Edison Canal in 2018 when it used seawater to cool the plant from the canal and then deliver it into the ocean. Harbor water quality has now been degraded as known. Ways to bring back the circulation should be explored for the longer term.</p> | <p>This comment regarding NRG is outside the scope of the Tentative Order, see response to comment 12.3.</p> <p>The City of Oxnard and the County of Ventura (who have recently approved an approved a cooperation agreement for major improvements in the Channel Islands Harbor including improvements addressing water quality, see 5/19/21: City of Oxnard and County of Ventura Unanimously Approve Channel Islands Harbor Cooperation</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|----------------|--|--|
| | | | Agreement — City Of Oxnard) are the appropriate entities to explore and consider projects to improve circulation. |
| 20 | Robert Lurie | <p>I have lived in the Westport Community of Channel Island Harbor for the past ten years. The water quality in the harbor has gotten much worse over this period of time. When the pecker-plant was operational, water quality was good. We had an abundance of mussels on seawalls and pilings. When plant stopped pumping the water through Edison Canal, water quality went downhill. Now it is hard to find a mussel on any piling.</p> <p>Time to clean up Edison Canal and let people use it for human powered watercraft with a bike trail along the bank. Turn an eyesore into a destination!</p> | This comment is outside the scope of the Tentative Order. See also responses to comment 12.3 and 19. |
| 21.1 | Arthur Bierman | It is fair and equitable that Farmers and ranchers that pollute must be accountable for verifying that they are achieving water quality standards to protect the environment and the public health. This accountability is essential to incentivize growers to make the investments that are needed to implement effective BMPs (Best Management Practices) and ensuring mandated water quality targets are achieved. Exception permits should no longer be granted. | <p>See comment response 12.2 and 16.4.</p> <p>It is unclear to the Los Angeles Water Board what the commenter means by exception permits. All discharges from commercial irrigated agricultural lands are subject to the Tentative Order and have been regulated since 2005.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|----------------|--|---|
| 21.2 | Arthur Bierman | Since NRG blocked the north end of Edison Canal in 2018, their runoff contaminants must travel 4.5 miles by thousands of homes to be discharged to the ocean at the harbor entrance. Harbor water quality has been degraded since the closing of the plant which is obvious by the Jellyfish and well as deteriorating boat bottoms in the Seabridge Harbour. This warning was published over 20 years ago by the Army of engineers! | See comment response 12.3. |
| 22.1 | Bruno Tonin | Coupled with the agricultural drainage and the closer of the power plant which interred stopped the water flow from recirculating harbor water causing a direct dire situation to lives both humans and sea life. | See response to comment 12.3. |
| 22.2 | Bruno Tonin | <p>Please have the agricultural owners that drain their chemically treat water into the harbor direct their water to a water treatment location prior to having it flow into channel island harbor.</p> <p>Other companies and institutions have their water purged of deadly chemicals prior to flowing into city sewers.</p> | <p>The Tentative Order has requirements for dischargers from irrigated agricultural lands to install management practices that improve water quality if the water discharged exceeds established water quality benchmarks. This is in line with the State of California's Nonpoint Source Policy and similar to other programs at the Los Angeles Water Board which regulate discharges.</p> <p>The Los Angeles Water Board may not mandate the manner of compliance by a discharger.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|---------------|---|--|
| | | | No change has been made. |
| 23.1 | Janine Nesbit | I urge the WDR to do the right thing to return our harbor waterways to their prior cleanliness. Thank you for your consideration. | See comment responses 11.2 and 14.5. |
| 24 | Angie Wiggins | <p>It has become a growing concern that the water quality has been degrading. There are definitely signs of pollutants that have been plaguing the harbor. This has become more apparent over the past few years.</p> <p>I am concerned, not only as a member of the community, but also because I feel that we, as a community, owe it to the sea, life in the harbor, to maintain a clean and viable habitat.</p> <p>Whether it is the farmers, the community members, or the homeowners, it is, everyone's responsibility to ensure that the water is clean, and viable. I understand that the farming and agricultural industry is an important part of this community, but it is also their responsibility to ensure that their pesticides and runoff do not adversely affect the waterways that's around them</p> | <p>See comment response 14.5.</p> <p>The mission of the Los Angeles Water Board is <i>"To preserve, enhance, and restore the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses, and to ensure proper water resource allocation and efficient use, for the benefit of present and future generations."</i></p> <p>The Irrigated Lands Program is one of many programs at the Water Board dedicated to working with stakeholders across the region to ensure our water resources are clean for all.</p> |
| 25 | R. Chatenever | The last time I corresponded with you was on November 9, 2022 when I asked that the water board not continue to extend the waiver of requirements for agricultural discharges from farms along the Edison Canal. That plea had no effect as | <p>See comment response 10.2 and 11.2.</p> <p>Discharges from irrigated lands have been regulated in the Los Angeles</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|--|--|--|--|
| | | <p>the water board once again took no action to stem the pollution.</p> <p>So I now ask you once again to take action to require the polluters to implement steps STARTING NOW to meet the requirements to control waste discharge. I understand that cost to the farmers is a factor, but cost will always be a factor and should not be an excuse to do nothing. If state standards are to mean anything, they must be enforced. Kicking the can down the road once again is simply not a reasonable action if we are ever to attain compliance.</p> | <p>Region since 2005. While the permit type that has regulated these discharges is called a “Conditional Waiver”, it does not mean no actions have been completed to address these discharges. Over the course of the last 17 years, agricultural dischargers have funded region-wide monitoring to identify the locations, types and magnitudes of pollutants in agricultural dominated waterbodies. Discharges have continued to implement management practices to address discharges as outlined in the WQMPs submitted for both Ventura and Los Angeles counties. Agricultural Dischargers have collectively completed thousands of hours of educational courses on ways to improve discharges.</p> <p>While the Los Angeles Water Board did extend the 2016/2021 Waiver last fall, this does not mean no action was taken nor that no action has been completed since then. In addition to the continuing tasks of coordinating with dischargers,</p> |
|--|--|--|--|

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|----|-------------|---|--|
| | | | <p>Discharger groups and other stakeholders, reviewing program deliverables to evaluate water quality and conducting enforcement activities, significant staff resources have been employed to develop the Tentative Order being presented to the Water Board on September 28, 2023. These efforts have been expended so that the new permit will be successful (in a fair, transparent, scientifically-justified manner) to improve water quality due to agricultural discharges.</p> |
| 26 | D. Mitchell | <p>I find very little information in the WDR draft that defines how the policy ensures that dischargers comply with their permits.</p> <p>There has been a mistaken understanding that placed blame for the water quality issues in our harbor on the shuttering of the once through cooling plant to the north of us. The reality is that the agricultural discharge was simply being pushed out to the Ocean sooner (estimated 1.5 billion gallon a month). Residents and visitors were unaware of there being anything threatening in our waters at that time.</p> | <p>See comment response 10.1. and 10.2, and 13.8.</p> <p>The identification of discharge contributors and magnitude of these contributions to Channel Island Harbor is outside the scope of the Tentative Order.</p> <p>The Tentative Order contains the regulatory requirements (responsibilities) dischargers of irrigated agriculture must follow to demonstrate compliance.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|----|----------|---|--|
| | | <p>While I can understand the Water Board's desire to "<i>alleviate the administrative burden of the Conditional Waivers</i>". There must be accountability and enforcement for the WDR to have any impact.</p> <p>We count on the Water Board to set the standard for Compliance and to that end hope that you will more clearly define the contributors, their responsibilities, and incentives for success as well as consequences for non-compliance.</p> | <p>The statement "<i>alleviate the administrative burden of the Conditional Waivers</i>" refers to the administrative tasks to be completed by Water Board staff (not dischargers) that occurred every 5 years to adopt a new waiver permit (such as public noticing, workshops, soliciting and responding to comments). By transitioning to a WDR permit (instead of Conditional Waiver) more staff resources will be available for compliance and enforcement actions.</p> |
| 27 | J. Havas | <p>As part of the Channel Islands' residents' community, I want to express the importance of your assuring that voices of our community are heard in connection with the WDR matters. I have been an active part of our homeowners' association trying to bring attention to the problems that have been created by the previous decisions made by various entities, including Oxnard City Council, the LA Regional Water Quality Board.</p> <p>Consequently, it is critical that appropriate steps be taken now, and proper attention directed by the LA Regional Water Quality Control Board. I appreciate your outreach to provide comments from the public. I would urge you and the Board to</p> | <p>See comments 10.2, 13.3, 13.4, 13.9.</p> |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023

| | | | |
|------|-------------|---|----------------|
| | | <p>be aware of the importance to our Community of maintaining a clean water environment in the waterways in which many of us reside, and for the sake of all those who use the waterways for recreation.</p> <p>Therefore, following are a few key matters for your attention:</p> <ul style="list-style-type: none">• WDR's proposal lacks description of those that are responsible for the problem, and they lack compelling incentives and/or penalties for non-compliance.• The plan also has conflicting statements and/or missing/incomplete information.• I believe you have been provided with a thoughtful and complete document prepared by others in our Community as to specific information which may be helpful to you. If not, I will be pleased to get you a copy of the information under separate cover. <p>I/we appreciate your care and concern to address the interests of concerned citizens regarding this matter</p> | |
| 28.2 | P. Schirmer | <p>Lastly, it should be a high priority of the City of Oxnard (the County of Ventura, and the State of California) to protect our water resources and therefore approve implementing waste discharge requirements, for discharges from irrigated agricultural lands.</p> | Comment noted. |

Comment Summary and Responses

General Waste Discharge Requirements for Discharges from Irrigated Agricultural Lands within the Los Angeles Region

Comment Due Date: August 18, 2023